

FORM 'A'

IN THE COURT OF ADDL. CHIEF JUDICIAL MAGISTRATE, COURT NO.1, PAONTA SAHIB, DISTRICT SIRMAUR, H.P.	
PRESENT : VIKAS GUPTA, Addl. C.J.M.	
Date of Judgment : 30.07.2026	
CIS Case No. : 15/2015	
CIS CNR No. : HPS1040012152014	
CIS Case Type : Police Challan	
CIS Case Year : 2015	
Case FIR No. : 410/14 Dtd. 11.11.2014	
Under Sections : 452,323, 34 IPC	
Police Station : Paonta Sahib	
COMPLAINANT	State of Himachal Pradesh
REPRESENTED BY	Miss Sandeepna, Id. APP
ACCUSED	1. Mohd. Rayis S/o Sh. Abdul Rehman, R/o Village Gonti, P.O. Chilkana, Tehsil Chilkna, District Saharanpur, U.P.
	2. Mohd. Yunus S/o Sh. Niyal Mohd., R/o Village Mehruwala, Paonta Sahib, District Sirmaur, H.P.
REPRESENTED BY	Sh. O.P. Chauhan, Ld. Advocate

FORM 'B'

Date of Offence	10.11.2014
Date of FIR	11.11.2014
Date of Chargesheet	-
Date of Framing of Charge	13.07.2022
Date of commencement of evidence	01.09.2023
Date on which Judgment is reserved	30.07.2026
Date of the Judgment	30.07.2026
Date of the sentencing order, if any	-

J U D G M E N T:

1. The prosecution case in brief is that on 10.11.2014 at about 11:30 p.m at place Mehruwala the accused persons

namely Mohd. Rayis and Mohd. Yunus criminally trespassed inside the house of the informant Smt. Shamim having covered their faces with bed sheets and having a rope and a Takua (Axe) in their hands. Thereafter, the above named accused persons gave beatings to the informant i.e. Smt. Shamim, Abdul and Ruksar with blows of the said Takua (Axe) thereby causing simple injuries to them.

2. A telephonic information about the aforesaid incident was given to the police at Police Post Singhpura, whereupon the police proceeded to the spot vide G.D entry. Thereafter, the police recorded the statement of the informant Smt. Shamim under Section 154 of the Code of Criminal Procedure, 1973 (in short "Cr.P.C."), on the basis of which the present FIR was registered and the endorsement was made.

3. During investigation the police proceeded to the spot and prepared the spot map. The Shaul, bed sheet, cloth piece and rope used by the above named accused persons were seized by the police vide seizure memo, after sealing the same into a cloth parcel with four seals bearing impression 'X'. The sample seals were taken on separate piece of cloth. The weapon of offence used by the above named accused persons i.e. Takua (Axe) was seized by the police vide seizure memo. Thereafter, upon an application moved by the police to M.O. CH Paonta Sahib, the medical examinations of the victims namely Smt. Shamim, Ruksar and Abdul were got conducted and their MLCs were obtained. The statements of witnesses under Section 161 of the Code of Criminal

Procedure, 1973 (in short "Cr.P.C.") were recorded as per their versions. On conclusion of investigation, the challan was prepared and presented before the Court.

4. The Court took cognizance of the alleged offences and summoned the accused persons. On appearance of the accused persons, copies of challan and annexed documents were supplied to them in compliance of Section 207 Cr.P.C. Thereafter, charges were put to the accused persons for commission of offences punishable under Sections 452 and 323 read with Section 34 IPC, to which, they pleaded not guilty and claimed trial.

5. The prosecution examined 07 witnesses to prove the guilt of the accused. Thereafter, statements of accused persons were recorded under section 313 Cr.P.C, wherein they denied the case of the prosecution. However, no defence evidence was led.

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

- (1) Whether the prosecution has proved beyond reasonable doubt that on 10.11.2014 at around 11:30 p.m at place Mehruwala, the accused persons namely Mohd. Rayis and Mohd. Yunus in furtherance of their common intention committed house trespass by entering into the house of complainant, used as a human dwelling having made preparation for causing hurt to the complainant, as alleged?
- (2) Whether the prosecution has proved beyond reasonable doubt that on the aforesaid date, time and place the above named accused persons in furtherance of their common intention gave beatings to the complainant party i.e. Abdul, Ruksar and Smt. Shamim with Takua (Axe) blows and caused simple hurt to them, as alleged?

(3) Final order

7. I have heard the arguments of Ld. APP and Ld. Defence Counsel and also perused the record.

8. For the reasons to be recorded hereinafter, the findings on the above said points are as under:

Point No. 1 : No

Point No. 2 : No

Final Order : Accused persons are acquitted for the charges of commission of offences punishable under Sections 452 and 323 read with Section 34 IPC as per operative part of the judgment.

EVIDENCE IN BRIEF:-

9. The prosecution in support of its case has examined a total of 07 witnesses.

10. PW1 is the informant Smt. Shamim who showed complete ignorance as to any facts of this case, whereupon she was declared hostile at the request of the prosecution.

11. In her cross-examination by the prosecution, she denied the entire prosecution story, only admitting her thumb impression on the memo Mark A and was contradicted on the basis of her previous statement Ext. P1/PW1 which she disowned.

12. PW2 is Sh. Abdul Kayum who is also an alleged injured person. He also showed complete ignorance as to any facts of this case, whereupon he was declared hostile at the request of the prosecution.

13. In his cross-examination by the prosecution, this

witness also denied the entire prosecution case and was contradicted on the basis of his previous statement Mark N, which he disowned.

14. PW3 is Dr. Rajiv Chauhan, M.O. CH Paonta Sahib. He stated that on 11.11.2014 he had conducted the medical examination of PW1 Smt. Shamim who had been brought by the police with alleged history of assault and had observed the following injuries on her person:-

1. Abrasion on right knee two in number circular in shape 2 inch in diameter, bright red in colour.
2. Complaints of tooth pain clotted blood present advised dental opinion.
3. Abrasion below left axilla 3 inch below circular in shape 3 inch in diameter with contusion blue in colour skin peeled about half inch.

15. As per opinion of this witness all the above three injuries were simple in nature caused by blunt weapon within 12 hours. He issued the MLC Ext. P1/PW3 bearing his signatures in red circle A.

16. On the same day, he examined one Ruksar brought by police with alleged history of assault. On examination, he observed the following injuries on his person:-

1. Lacerated wound on left palm 2 inch x ½ inch clotted blood present.
2. Cut wound on scalp parietal region ½ inch in length.

3. Abrasion of left hip 2 inch x 1 inch red in colour.

17. As per opinion of this witness, all the above three injuries were simple in nature caused by blunt weapon within 12 hours. He issued the MLC Ext. P2/PW3 bearing his signature in red circle A.

18. On the same day, he had also examined one Abdul Kayum brought by police with alleged history of assault and on examination, he observed the following injuries on his person:-

1. Lacerated wound on left forearm 2 inch x $\frac{1}{2}$ inch near elbow joint upper aspect.

No other injury seen.

19. As per opinion of this witness, the above injury was simple in nature caused by blunt weapon within 12 hours. He issued the MLC Ext. P3/PW3 bearing his signatures in red circle A.

20. He further opined that the said injuries can be caused by the weapon Ext. MO-6.

21. PW4 is Smt. Ruksar. This witness also showed complete ignorance as to any facts of this case, whereupon she was declared hostile at the request of the prosecution.

22. In her cross-examination by the prosecution, this witness also denied the entire prosecution case and was contradicted on the basis of her previous statement Mark R, which she disowned.

23. PW5 is Sh. Shahid. This witness also showed complete ignorance qua any facts of this case, whereupon he

was declared hostile at the request of the prosecution.

24. In his cross-examination by the prosecution, this witness also denied the entire prosecution case and was contradicted on the basis of his previous statement Mark S, which he disowned.

25. PW6 is Retired Inspector Ranjeet Singh who is the Investigating Officer of the present case. He summed up the entire investigation proceedings. Apart from the evidences already proved on record, he proved on record, he proved on record the G.D entry Ext. P1/PW6, FIR Ext. P3/PW6, endorsement qua FIR Ext. P4/PW6, form 25.39 Ext. P5/PW6, spot map Ext. P6/PW6, sample seals Ext. P8/PW6, seizure memo Ext. P7/PW6, seizure memo qua the weapon of offence i.e. Takua Ext. MO-6 Ext. P9/PW6 and the statements of witnesses Ext. P10/PW6 to Ext. P14/PW6 as well as the challan Ext. P15/PW6. He further identified the case property i.e. the parcel Ext. MO-1, shawl Ext. MO-2, bed sheet Ext. MO-3, cloth parcel Ext. MO-4 and rope Ext. MO-5 in Court.

26. PW7 is Retired HASI Laxmi Nand. He stated that in the year 2014 he was posted as HHC at Police Post Singhpura. He further stated that on 10.11.2014 at about 11:40 p.m upon receiving telephonic information qua a fight at Mehruwala he along with other police personnel proceeded to the spot vide G.D entry Ext. P1/PW6.

27. This is the entire relevant evidence on record.

REASONS FOR FINDINGS:-
POINTS NO. 1 & 2.

28. Both these points are taken up together as they are

inter-related and same evidence has been led with respect to these points.

29. At the very outset, it may be stated that the prosecution has failed to prove its case against the accused persons beyond reasonable doubt. The material witnesses i.e. PW1 Smt. Shamim, PW2 Abdul Kayum and PW4 Ruksar who are the persons who allegedly suffered injuries in the incident, have not supported the prosecution case. They have been declared hostile. Even after being declared hostile they have denied the prosecution case and have been contradicted on the basis of their respective previous statements. In view of such contradiction, the very basis of their statements made in Court stand washed away and no reliance can be placed on any part of their statements. Apart from this, the other evidence is the statement of Doctor PW3 who has proved the injuries on the persons of victims and statements of official witnesses proving various proceedings of the investigation. However, since there is no direct evidence linking the accused persons to the commission of the aforesaid offences, it has to be held that the charges under Sections 452 and 323 read with Section 34 IPC against both the accused fail. Accordingly, points No. 1 and 2 are answered in the negative and are decided against the prosecution.

FINAL ORDER:-

30. In view of the above discussion, both the accused persons namely Mohd. Rayis and Mohd. Yunus are acquitted for the commission of offences punishable under Sections 452

and 323 read with Section 34 IPC. All bonds except under section 437-A Cr.P.C stand discharged. The case property i.e. shawl Ext. MO-2, bed sheet Ext. MO-3, rope Ext. MO-5 and takua (axe) Ext. MO-6 be destroyed, after the expiry of period of limitation to file appeal and in case of appeal the same be dealt with as per the orders of Ld. Appellate Court. File after due completion be consigned to the record room.

Announced and signed in the open Court this the 30th day of July, 2026. sd/-

(Vikas Gupta)
Addl. Chief Judicial Magistrate,
Court No.1, Paonta Sahib, District Sirmaur, H.P.

Monika

Accused Details:-

R a n k o f t h e A c c u s e d	Name of Accused	Date of Arrest	Date of release on bail	Offences charges with	Whether acquitted or convicted	Se nte nce imp ose d	Period of detention undergone during the trial for purpose of section 428 Cr.P.C.
1	Mohd. Rayis	11.11.2014	12.11.2014	452, 323, 34 IPC	Acquitted	--	--
2	Mohd. Yunus	11.11.2014	12.11.2014	452, 323, 34 IPC	Acquitted	--	--

FORM 'C'

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Smt. Shamim	Complainant
PW2	Sh. Abdul Kayum	Witness of memo
PW3	Dr. Rajiv Chauhan	Witness qua MLCs
PW4	Smt. Ruksar	Witness of spot
PW5	Sh. Shahid	Witness of spot
PW6	Retd. Inspector Ranjit Singh	Witness of investigation
PW7	Retd. HASI Laxmi Nand	Witness of G.D entry

B. Defence witness, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)

Nil	Nil	Nil
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C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
Nil	Nil	Nil

LIST OF PROSECUTION/DEFENCE/ COURT EXHIBITS

A. Prosecution

Sr. No.	Exhibit Number	Description
1.	P1/PW1	Rukka
2.	P1/PW3	MLC of Smt. Shamim
3.	P2/PW3	MLC of Smt. Ruksar
4.	P3/PW3	MLC of Abdul Kayum
5.	P1/PW6	G.D entry
6.	P2/PW6	Form 25.39
7.	P3/PW6	FIR
8.	P4/PW6	Endorsement qua FIR
9.	P5/PW6	Application to M.O CH Paonta Sahib
10.	P6/PW6	Spot map
11.	P7/PW6	Seizure memo
12.	MO-1	Cloth parcel
13.	MO-2	Shaul
14.	MO-3	Bed sheet
15.	MO-4	Cloth piece
16.	MO-5	Rope
17.	P8/PW6	Sample seals
18.	P9/PW6	Memo
19.	MO-6	Takua (Axe)
20.	P10/PW6	Statement of Smt. Shamim
21.	P11/PW6	Statement of Kumari Ruksar
22.	P12/PW6	Statement of Sh. Abdul Kayum
23.	P13/PW6	Statement of Sh. Shokat Ali
24.	P14/PW6	Statement of Sh. Shahid
25.	Mark A	X-Ray Form
26.	P15/PW6	Final Form/Report

B. Defence:

Sr. No.	Exhibit Number	Description
Nil	Nil	Nil

C. Court Exhibits

Sr. No.	Exhibit Number	Description
Nil	Nil	Nil

D. Material Objects:

Sr. No.	Material Number	Object	Description
Nil	Nil	Nil	

sd/-
(Vikas Gupta)
Addl. Chief Judicial Magistrate,
Court No.1, Paonta Sahib, District Sirmaur, H.P.

Particulars of personal and surety bonds furnished by the accused persons under Section 437-A Cr.P.C., which are attested and accepted

Sr. No.	Particulars of Accused	Personal Bond	Particulars of Surety Bond
1	Mohd. Rayis S/o Sh. Abdul Rehman, R/o Village Gonti, P.O. Chilkana, Tehsil Chilkna, District Saharanpur, U.P.	-	Bonds earlier furnished by the accused in this case have been treated as bonds in compliance to Section 437-A Cr.P.C.
2	Mohd. Yunus S/o Sh. Niyal Mohd., R/o Village Mehruwala, Paonta Sahib, District Sirmaur, H.P.	-	Bonds earlier furnished by the accused in this case have been treated as bonds in compliance to Section 437-A Cr.P.C.

sd/-

(Vikas Gupta)

**Addl. Chief Judicial Magistrate,
Court No.1, Paonta Sahib, District Sirmaur, H.P.**