

State of H.P. -Versus- Ashwani Kumar and others.
 CNR No.HPKA01-004261-2021.
 CIS Registration No.178/2021.

**In the court of Judge, Special Court, Kangra at
 Dharamshala, District Kangra (H.P.)**

FORM-'A'

Present : Chirag Bhanu Singh, Judge, Special Court.

CNR Number : HPKA01-004261-2021.
 CIS Registration No. : 178/2021.
 Sessions Case No. : 45-P/VII/2021.
 Presented on : 22.10.2021.
 Decided on : 11.08.2026.

**Challan under Sections 147, 149,
 323 and 427 of the Indian Penal
 Code and Section 3(2)(va) of the
 Scheduled Castes and Scheduled
 Tribes (Prevention of Atrocities)
 Act, in case FIR No.33/2021 dated
 25.06.2021, Police Station
 Panchrukhi, District Kangra, H.P.**

Complainant : Shri Santosh Kumar.
 Represented by : Shri N.S. Chauhan, learned Public
 Prosecutor.
 Accused : 1. Ashwani Kumar son of Late
 Shri Laxman Dass, resident of
 Village Parnoh, Post Office
 Panchrukhi, Tehsil Palampur,
 Police Station Panchrukhi,
 District Kangra (HP) **(A-1)**
 2. Jag Jeewan son of Late Shri
 Laxman Dass, resident of
 Village Parnoh, Post Office
 Panchrukhi, Tehsil Palampur,
 Police Station Panchrukhi,
 District Kangra (HP) **(A-2)**
 3. Anil Kumar son of Late Shri
 Gambhir Chand, resident of
 Village Bagehar, Post Office
 Panchrukhi, Tehsil Palampur,
 Police Station Panchrukhi,

State of H.P. -Versus- Ashwani Kumar and others.
 CNR No.HPKA01-004261-2021.
 CIS Registration No.178/2021.

District Kangra (HP) **(A-3)**

4. Sunil Kumar son of Shri Milap Chand, resident of Village Khurad Patt, Post Office Bhawarna, Tehsil Palampur, Police Station Panchrukhi, District Kangra (HP) **(A-4)**
5. Omma Devi wife of Late Shri Sant Ram, resident of Village Panchrukhi, Post Office Panchrukhi, Tehsil Palampur, Police Station Panchrukhi, District Kangra (HP) **(A-5)**
6. Ashok Kumar son of Late Shri Sant Ram, resident of Village Panchrukhi, Post Office Panchrukhi, Tehsil Palampur, Police Station Panchrukhi, District Kangra (HP) **(A-6)**
7. Shanti Sharma @ Shilpa wife of Ashok Kumar, resident of Village Panchrukhi, Post Office Panchrukhi, Tehsil Palampur, Police Station Panchrukhi, District Kangra (HP) **(A-7)**
8. Satish Kumar son of Shri Jag Jeevan, resident of Village Parnoh, Post Office Panchrukhi, Tehsil Palampur, Police Station Panchrukhi, District Kangra (HP) **(A-8)**
9. Sudesh Kumari wife of Shri Ashwani Kumar, resident of Village Parnoh, Post Office Panchrukhi, Tehsil Palampur, Police Station Panchrukhi, District Kangra (HP) **(A-9)**

Represented by : Shri Prabhat Chaudhary, Advocate.

J U D G M E N T

State of H.P. -Versus- Ashwani Kumar and others.
CNR No.HPKA01-004261-2021.
CIS Registration No.178/2021.

The accuseds Ashwani Kumar, Jag Jeewan, Anil Kumar, Sunil Kumar, Omma Devi, Ashok Kumar, Shanti Sharma @ Shilpa, Satish Kumar and Sudesh Kumari have been sent up for trial for having allegedly committed offences punishable under Sections 147, 323 and 427 read with Section 149 of the Indian Penal Code and Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter to be referred to as the Act).

2. Shorn of unnecessary details, the case of the prosecution is that the complainant Santosh Kumar (PW-1) belongs to the Scheduled Caste. On 29.05.2021 at about 6:30 p.m. when the complainant (PW-1) was present in his house, the accuseds had appeared at the spot carrying iron rods. They had assembled near his shop and started abusing him and his family. It is further the case of the prosecution that Rajesh alias Labhu and the accuseds Ashwani Kumar, Anil Kumar and Ashok broke the lock of the shutter of the shop of the complainant (PW-1), opened it and caused damage to the car of the complainant (PW-1) parked therein.

3. The accuseds had also abused the complainant (PW-1) and his family and Rajesh alias Labhu had uttered casteist remarks by proclaiming "Chamar Tujhe Gaadi Ke Andar Fook Denge Tu Jo Marji Kar Le."

4. Further per the prosecution, that on 25.06.2021 at about 7:30 p.m., all the accuseds again had assembled near the shop of the complainant (PW-1) armed with dandas and rods. They had broken the glass of the shop of

State of H.P. -Versus- Ashwani Kumar and others.
CNR No.HPKA01-004261-2021.
CIS Registration No.178/2021.

the complainant (PW-1) and entered inside. They had tried to take out the vehicle of the complainant bearing registration No.HP-37D-1563. When the complainant (PW-1) tried to stop them, they had started beating him. The accused Ashwani Kumar was alleged to have hit him resulting in injuries on his back. During the scuffle, the complainant (PW-1) had lost ₹ 10,000/-.

5. When the wife of the complainant, Saroj Kumari (PW-5) tried to rescue the complainant (PW-1), the wives of the accuseds Ashwani Kumar and Ashok Kumar had caught hold of her. It was the brother of the complainant, Subhash Chand (PW-2) and one person wearing a helmet, who had rescued the complainant (PW-1) from the clutches of the accuseds.

6. The matter came to be reported to the police vide complaint Ext.P-16/PW-1. On the basis of the same, FIR Ext.P-27/PW-12 came to be registered in Police Station Panchrukhi. Dr. Raj Rana (PW-11) had conducted the medical examination of the complainant (PW-1) and the Investigating Officer had procured his MLC Ext.P-24/PW-11.

7. The complainant (PW-1) had produced his damaged car bearing registration No.HP-37D-1563 which was taken into possession by the police vide memo Ext.P-17/PW-1. The Investigating Officer ASI Sandeep Kumar (PW-7) had also prepared the spot map Ext.P-21/PW-7 on the identification of the complainant (PW-1). The complainant (PW-1) had also produced one DVD (Ext.PW-18/PW-1) which contained the CCTV footage of both the

State of H.P. -Versus- Ashwani Kumar and others.
CNR No.HPKA01-004261-2021.
CIS Registration No.178/2021.

incidents and the same was taken into possession vide memo Ext.P-19/PW-1.

8. In the meanwhile, the investigations came to be entrusted to PW-12 Shri Gurbachan Singh, the then SDPO Palampur since the provisions of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act had been attracted.

9. PW-12 Gurbachan Singh visited the spot and again recorded the statements of the complainant (PW-1) and his brother Subhash Chand (PW-2). He procured the pedigree table of the accused Omma Devi (Ext.P-3) along with caste certificates/pedigree tables of the complainant (PW-1) and the other accuseds vide Ext.P-7 to Ext.P-13. He also procured the copy of the notification relating to the Scheduled Castes and Scheduled Tribes vide Ext.P-15.

10. PW-13 Sanjay Kumar had prepared the DVD of the CCTV footage dated 29.05.2021 and 25.06.2021 installed in the shop of the complainant (PW-1) as per his directions and the request of the police. He had handed over the same to the complainant (PW-1). After completion of the investigations, Shri Gurbachan Singh (PW-12) had prepared the charge-sheet and filed the same in the court.

11. On the charges having been framed, the accuseds pleaded not guilty and claimed trial.

12. The prosecution to bring home the charges against the accuseds, has examined as many as 13 witnesses. On conclusion of the trial, the accuseds again denied the allegations and the incriminating circumstances

State of H.P. -Versus- Ashwani Kumar and others.
CNR No.HPKA01-004261-2021.
CIS Registration No.178/2021.

adduced against them. Apart from reiterating the denial in their statements under Section 313 of Cr.P.C., the accuseds have stated that they were innocent. They pleaded false implication. The streak of defence, which emerged from the statements recorded under Section 313 of Cr.P.C. was that a false case had been made against the accuseds. The complainant (PW-1) had fought with them. They had in fact taken out his car which he had parked in their shop since 27.05.2021. The complainant (PW-1) had parked his vehicle in their shop when the shutter of the shop was being repaired on 27.05.2021.

13. The accuseds however chose not to examine any evidence in defence.

14. I have heard the learned Public Prosecutor for the State and the learned counsel for the accuseds and also examined the entire evidence, circumstances and other attendant material brought on record by the prosecution.

15. The proposition which predominantly comes to the fore for determination, may be summarized thus:-

1. Whether the prosecution has been able to conclusively prove the circumstances disclosed in the charge-sheet thereby making the accuseds liable for punishment under Sections 147, 323 and 427 read with Section 149 of the Indian Penal Code and Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 or not?
2. Final order.

16. For the reasons to be recorded here-in-after, while discussing the aforesaid points for determination, my

State of H.P. -Versus- Ashwani Kumar and others.
CNR No.HPKA01-004261-2021.
CIS Registration No.178/2021.

findings thereon are as under:-

Point No.1 : No.

Final order : The accuseds are acquitted as per operative portion of the judgment.

REASONS FOR THE FINDINGS

Point No.1.

17. The only witnesses examined by the prosecution in this case are the complainant Santosh Kumar (PW1), his brother Subhash Chand (PW-2) and his wife Saroj Kumari (PW-5). No independent witness has been examined by the prosecution. All being closely related, they can be said to be the interested witnesses.

18. Nonetheless, it is the testimony of the complainant Sanotsh Kumar (PW-1) that he belonged to the Scheduled Caste and was running an electronic shop at Panchrukhi Bazar since 1994. In the year 2006, he had purchased some land from Smt. Nitiya Devi and in the year 2007-08, he had constructed a shop on Khasra No.1028.

19. On 29.05.2021 at about 6:30 p.m. when he was present in his house, Rajesh alias Labhu and the accuseds Rajneesh, Satish Jagjeevan, Ashwani, his wife, Ashok, his wife and Anil had assembled near his shop which is just opposite the roadside. The accuseds were carrying "Gainti" and iron rods. They had started abusing him and his family. Rajesh alias Labhu and the accuseds Ashwani, Anil and Ashok had broken the lock of the shutter of his shop, opened the shutter and damaged his car. Rajesh alias

State of H.P. -Versus- Ashwani Kumar and others.
CNR No.HPKA01-004261-2021.
CIS Registration No.178/2021.

Labhu had passed caste based remarks proclaiming “Chamar Tujhe Gaadi Ke Andar Fook Denge Tu Jo Marji Kar Le.” The police had reached the spot, however, no action had been taken.

20. Further, per him, on 25.06.2021 at about 7:30 p.m. when he was closing his shop, the accuseds had again come near his shop. The accused Ashwani had thrown a brick on his vehicle due to which window pane of the driver's door was broken. They took out his car from the shop. He tried to stop the accuseds. They did not pay any heed to his requests and started beating him. Due to the beatings, he had sustained injuries on his back. He was rescued by his brother Subhash (PW-2) and wife Saroj Kumari (PW-5).

21. On the same day, he had reported the matter to the police vide Ext.P-16/PW-1.

22. In his cross-examination, the complainant (PW-1) has admitted that he was the General Power of Attorney of Nitiya Devi and on the basis of the said GPA, he had sold the disputed property i.e. shop where the car was parked to his wife Saroj Kumari (PW-5). He has admitted that as per the sale deed Mark-D1, he was not competent to sell the shops. He has admitted that Nitiya Devi was the adopted daughter of Roop Lal who was the paternal uncle (Taya) of accuseds Ashwani and Jagjeevan. He has admitted that the land owned by Roop Lal and the accused Jagjeevan was joint. He has admitted that he had filed a civil suit on 10.08.2006 against the accused Jagjeevan for permanent injunction and the parties had been directed to maintain

State of H.P. -Versus- Ashwani Kumar and others.
CNR No.HPKA01-004261-2021.
CIS Registration No.178/2021.

status quo qua nature of the suit land. He has admitted that he had constructed the disputed shop in the year 2007-08 and at that time, status quo order was in force. He has admitted that the CCTV footage dated 29.05.2021 was never sent for forensic examination.

23. As per him, only the accused Ashwani had given him beatings with fist blows. He has admitted that his father was a tenant of the accuseds Jagjeevan and Ashwani though he has denied that the shop in dispute was in possession of the accused Jagjeevan and Ashwani. Though he has denied that on 27.05.2021, the shutter of the shop was being repaired when he had forcibly parked the car inside the shop. However, he has admitted that on the complaint of the accused Ashwani, the Pradhan of Gram Panchayat had visited the spot that day and even he had been asked to come there. However, he had not gone to the spot as he was suffering from COVID. He has feigned ignorance that the accused Ashwani had also lodged a complaint with the police regarding the said occurrence on 27.05.2021. He has denied that he had forcibly occupied the shop and on that day, one Press Reporter Amir Chand Dogra was also present at the spot. He has however admitted that the video prepared by the Press Reporter was viral in social media.

24. He has denied that on 29.05.2021, he and his wife had assaulted the accuseds with bricks. However, he has admitted that qua this assault (29.05.2021), he was facing a criminal trial in the court of learned ACJM, Palampur.

State of H.P. -Versus- Ashwani Kumar and others.
CNR No.HPKA01-004261-2021.
CIS Registration No.178/2021.

25. The brother of the complainant, Subhash Chand has been examined as PW-2. He has deposed that he did not remember the exact date of the occurrence. However, about 3-4 years back, he was present in his shop which is about 50 meters away from the shop of his brother i.e. the complainant (PW-1). He heard the noise of a quarrel outside which was coming from the bazar side. One boy had disclosed to him that his brother was being beaten by some persons. On this, he had gone outside the shop and saw the accuseds having laid down his brother on the road. He rescued his brother from the accuseds. At that time, some of the accuseds were pushing the vehicle of his brother which was parked inside the shop of his brother.

26. The witness had been shown the CCTV footage dated 25.06.2021 (Ext.P-18/PW-1) in which the accuseds were seen pushing the vehicle of his brother from his shop and giving beatings to him on the road. Per him, he was also visible in the CCTV footage rescuing his brother.

27. In his cross-examination, however, he has feigned ignorance that the shop in dispute was constructed by his brother. He has also feigned ignorance about the ownership of the shop, from which the car was being pushed. He has admitted that he did not hear the accuseds uttering any caste based remarks to his brother. He has admitted in his cross-examination that he had not seen the accuseds beating his brother.

28. PW-5 Saroj Kumari, the wife of the complainant has supported the version of the complainant (PW-1). She has reiterated that even on 29.05.2021, the accuseds had

State of H.P. -Versus- Ashwani Kumar and others.
CNR No.HPKA01-004261-2021.
CIS Registration No.178/2021.

assembled near their shop at about 6:00-6:30 p.m. They had started abusing her and her husband. Rajesh alias Labhu and the accuseds Ashwani, Anil and Ashok broke the lock of the shutter, damaged the shutter and opened the same. Rajesh alias Labhu had broken the rear windshield of their car and he had also uttered caste based remarks against her husband.

29. Likewise, she has also supported the version of the complainant relating to the occurrence 25.06.2021. As per her, the accuseds had taken out the car outside the shop and when her husband (PW-1) tried to stop the accuseds, they gave beating to him. She tried to rescue her husband when the wives of the accuseds Ashwani and Ashok had caught hold of her. Thereafter, one person wearing a helmet and Subhash (PW-2) had reached the spot and rescued her husband.

30. In her cross-examination, PW-5 Saroj Kumari has admitted that on 25.06.2021 there were many people present at the spot. She has denied that one Press Reporter was also called for recording. She has feigned ignorance that the recording of the Press Reporter had gone viral on social media. She has denied having any knowledge about the civil or criminal litigation between the accused and her husband. She has denied that they had forcibly parked the vehicle in the shop in dispute on 27.05.2021 when the accuseds were repairing the shop. She has denied that the accuseds had reported the matter to the Gram Panchayat and on their complaint, the Pradhan had visited the spot. She has denied that when the Pradhan

State of H.P. -Versus- Ashwani Kumar and others.
CNR No.HPKA01-004261-2021.
CIS Registration No.178/2021.

had called her husband, he had refused to go to the spot because of COVID.

31. This is the entire evidence brought on record by the prosecution. The other witnesses are all formal or police officials and hence need not be discussed in detail.

32. It further transpires from the evidence on record that two separate incidents, one on 29.05.2021 and the other on 25.06.2021 are stated to have taken place. The incident relating to 29.05.2021, however, was never reported by the complainant Santosh Kumar (PW1), rather the accuseds had made a complaint regarding the said occurrence. However, he has admitted in his cross-examination that qua the said occurrence, he was facing a criminal trial in the court of learned ACJM, Palampur. The wife of the complainant, Saroj Kumari, who has appeared as PW-5, however, has denied any knowledge about any civil or criminal litigation between the accuseds and her husband.

33. As per the complainant himself, on 25.06.2021, no caste based remarks have been made. Even the brother of the complainant i.e. PW-2 Subhash Chand has admitted in the cross-examination that he did not hear the accuseds uttering any caste based remarks to his brother. He has even admitted that he had not seen the accuseds beating his brother, however, when he reached the spot, his brother was lying on the road. He has admitted that there were civil as well as criminal cases pending between his brother and accused Ashwani. Strangely, PW-5 Saroj Kumari, the wife of the complainant (PW1) has denied having any such

State of H.P. -Versus- Ashwani Kumar and others.
CNR No.HPKA01-004261-2021.
CIS Registration No.178/2021.

knowledge.

34. The complainant himself has admitted that on 10.08.2006, he had filed a civil suit against the accused Jagjeevan for permanent injunction and the court had directed both the parties to maintain status quo. He has admitted in the cross-examination that the disputed shop was constructed by him in the year 2007-08 and at that time, the status quo order was in force. He has also admitted that the CCTV footage dated 29.05.2021 was never sent for forensic examination.

35. The complainant (PW-1) has denied that on 27.05.2021, the shop was being repaired by the accuseds and during lunch, he had forcibly parked his car inside the shop. However, he has admitted that on the complaint of the accused Ashwani, the Pradhan, Gram Panchayat had visited the spot and even he was asked to come there. He has further clarified that he had not gone to the spot because he was suffering from COVID. He has admitted that the video prepared by the Press Reporter had gone viral on social media. He has also admitted that the partition proceedings were pending before the Tehsildar, Panchrukhi in respect of the land. He has denied that since he wanted a passage to his land situated behind the shop, he had forcibly parked his vehicle inside the shop.

36. It has further come on record that the complainant (PW1) had himself produced one DVD Ext.P-18/PW-1 in respect of the CCTV footage of both the incidents i.e. 29.05.2021 and 25.06.2021 and the same was handed over to the investigating agency vide memo Ext.P-

State of H.P. -Versus- Ashwani Kumar and others.
CNR No.HPKA01-004261-2021.
CIS Registration No.178/2021.

19/PW-1. He had got the DVD prepared from Sanjay Kumar (PW-13).

37. Strangely, the CCTV footage has not been taken into possession by the police or got prepared by them. The complainant himself has got the DVD prepared regarding the footage from PW-13 Sanjay Kumar, the Proprietor of Hollywood Photo Studio at Panchrukhi. The other video recording which had been made by the Press Reporter Amir Chand Dogra has neither been taken into possession nor proved on record. He being an independent witness, having no axe to grind either with the accuseds or the complainant, was the most relevant witness to have been examined. Somehow, he has not been examined nor the CCTV footage has been recovered from him. Admittedly, many people were present at the spot at the time of occurrence, but no other independent witness has been associated or examined by the prosecution. PW-5 Saroj Kumari has also deposed so that many people were present on the spot on 25.06.2021. The CCTV footage recovered was also obtained from the complainant.

38. Even otherwise, the incident dated 29.05.2021 rather came to be reported against the complainant (PW-1) and a criminal trial admittedly is pending against him before the learned ACJM, Palampur. The incident relating to 25.06.2021 thus was the only incident of which the accuseds can be implicated and that is why only charges under Sections 147, 323 and 427 read with Section 149 of IPC and Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act had been

State of H.P. -Versus- Ashwani Kumar and others.
CNR No.HPKA01-004261-2021.
CIS Registration No.178/2021.

framed against the accuseds. No caste based remarks are alleged to have been made by the accuseds on 25.06.2021 by any of the witnesses.

39. The only evidence worth the name on record is that the complainant (PW-1) while seeing the CCTV footage dated 25.06.2021 has stated that the accuseds are visible in the DVD Ext.P-18/PW-1 pulling his vehicle from the shop/garage and giving beatings to him on the road. His brother and his wife are seen rescuing him from the clutches of the accuseds. The complainant himself apart from naming all the accuseds has merely stated that the accused Ashwani threw a brick on his vehicle due to which the pane of the driver's door was broken. He tried to stop the accuseds, but they started beating him. He has also not deposed as to which of the accuseds had physically assaulted him. Per his brother i.e. Subhash Chand (PW-2) when he went outside the shop, he saw that the accused had laid down his brother on the road. He had rescued his brother from the accuseds. At that time, some of the accuseds were pushing the vehicle of his brother. The vehicle of his brother also broken by the accuseds.

40. However, strangely his brother (PW-2) has also feigned ignorance that the shop in dispute was constructed by his brother. He has feigned ignorance as to who was the owner of the shop. He has admitted that he had not seen the accuseds uttering any caste based remarks nor he had seen the accuseds beating his brother. Even PW-5 Saroj Kumari has merely stated that all the accuseds had come near the shop and the accused Ashwani had thrown a brick

State of H.P. -Versus- Ashwani Kumar and others.
CNR No.HPKA01-004261-2021.
CIS Registration No.178/2021.

on the vehicle due to which the glass of the driver's door was broken. The accuseds had taken out the car by pushing it. Her husband tried to stop the accuseds but they did not pay any heed to his requests and started beating him. When she tried to rescue her husband, the wives of accuseds Ashwani and Ashok had caught hold of her and Subhash Chand (PW-2) and one person wearing a helmet had rescued her and her husband.

41. The only evidence worth the name which has emerged on record is that the accused Ashwani had apparently thrown a brick and had broken the glass pane of the driver side window. Even the said fact is not convincingly corroborated by Subhash Chand (PW-2). Only the complainant Santosh Kumar (PW-1) and his wife Saroj Kumari (PW-5) have stated so. There being no independent witness, the versions of the two witnesses alone cannot be said to be convincing and cogent, as admittedly a long drawn battle is already underway between the parties since the year 2006. Despite a status quo order, the complainant himself admits that he had constructed the disputed shop in the year 2007-08. Not only are there civil cases pending between the parties but also partition proceedings were stated to be pending before the Tehsildar. The occurrence dated 29.05.2021 which also has been highlighted by the witnesses to bring home the guilt of the accuseds also ended up in an FIR being registered against the complainant (PW-1). He is in fact facing a criminal trial in the court of learned ACJM, Palampur in respect of the occurrence dated 29.05.2021. Seeing to the long standing

State of H.P. -Versus- Ashwani Kumar and others.
CNR No.HPKA01-004261-2021.
CIS Registration No.178/2021.

bickering between the parties, the sole testimony of the complainant (PW-1) and his wife (PW-5) cannot be made the sole basis to hold conclusively that the accuseds had committed the aforesaid offences. In fact even PW-1 i.e. the complainant and his wife (PW-5) have not attributed any overt acts to six people. They have only implicated the accused Ashwani, his wife and the wife of the accused Ashok. Even if the testimony of PW-5 Saroj Kumari is to be believed as a gospel truth, the two ladies had merely caught hold of her. Thus seeing to the totalities of the circumstances discussed above, it cannot be said that the prosecution has been able to establish the offences against the accuseds beyond reasonable doubt. The benefit of doubt thus has to augur to the benefit of the accuseds.

42. It is no doubt true that even the sole testimony of the complainant (PW-1) is sufficient to bring home the guilt of the accuseds and can be relied, but the testimony of such witness has to be creditworthy and without any blemish. The testimony should have a halo of truthfulness and should be able to be trusted clearly and convincingly. The chain of events should be cogent and totally reliable. However, the evidence discussed herein above (supra) clearly goes to show that the testimony of the complainant (PW-1) is wanting and is not fully trustworthy. It fails to inspire confidence and credibility, more particularly seeing to their acrimonious past. The accuseds and the complainant have been on a war path since 2006. Moreover the version of Subhash Chand (PW-2) also does not corroborate his testimony substantially.

State of H.P. -Versus- Ashwani Kumar and others.
CNR No.HPKA01-004261-2021.
CIS Registration No.178/2021.

43. It is further trite that the onus to prove the ingredients of the offence is upon the prosecution. Unless the evidence adduced in the case is consistent, with the hypothesis of the guilt of the accuseds and is not shrouded by any doubt, only then a charge can be said to be proved against the accuseds. Whenever a court entertains any reasonable doubt, regarding the complicity of the accuseds, they must be given the benefit of the same. Unhesitatingly, it can be held that in the present case, the prosecution has failed to prove its case beyond all reasonable doubt against the accuseds.

44. For all the aforesaid reasons, the point No.1 is decided against the prosecution and in favour of the accuseds.

Final order.

45. In view of my discussions and findings on point No.1 above, the accuseds are entitled to be acquitted. I, therefore, acquit the accuseds for the offences punishable under Sections 147, 323 and 427 read with Section 149 of the Indian Penal Code and Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The case property, if any, is ordered to be destroyed in accordance with law, after the completion of the statutory period envisaged for filing an appeal. If any appeal is preferred, the same be dealt with as per the directions of the Hon'ble Appellate Court. Bonds have already been furnished in pursuance to Section 481 of the Bharatiya Nagarik Suraksha Sanhita, which shall remain in force for six months. The file, after its due completion, be

State of H.P. -Versus- Ashwani Kumar and others.
CNR No.HPKA01-004261-2021.
CIS Registration No.178/2021.

consigned to the record room.

Announced and signed in the Open Court on
this **11th day of August, 2026.**

(Chirag Bhanu Singh)
Judge, Special Court,
Kangra at Dharamshala,
District Kangra (H.P.)

State of H.P. -Versus- Ashwani Kumar and others.
CNR No.HPKA01-004261-2021.
CIS Registration No.178/2021.

FORM 'B'

Date of offence : 25.06.2021.
Date of FIR : 25.06.2021.
Date of charge-sheet : 22.10.2021.
Date of committal : -
Date of framing of charges : 21.11.2022.
Date of commencement of evidence. : 11.09.2024.
Date on which judgment is reserved. : 04.08.2026.
Date of the judgment : 11.08.2026.
Date of the sentencing order, : -
if any.

Accused Details :-

Rank and name of the accused : **A-1** Ashwani Kumar.
A-2 Jag Jeewan.
A-3 Anil Kumar.
A-4 Sunil Kumar.
A-5 Omma Devi.
A-6 Ashok Kumar.
A-7 Shanti Sharma
alias Shilpa.
A-8 Satish Kumar.
A-9 Sudesh Kumari.
Date of arrest : -
Date of release on bail : -
Offence charged with : Under Sections 147,
323 and 427 read with
Section 149 IPC and
Section 3(2)(va) of the
SC&ST Act.
Whether acquitted or convicted : Acquitted.
Sentence imposed : -
Period of detention undergone : -

State of H.P. -Versus- Ashwani Kumar and others.
CNR No.HPKA01-004261-2021.
CIS Registration No.178/2021.

during the trial for purpose of
Section 428 of Cr.P.C.

FORM 'C'

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution :

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

PW-1	Shri Santosh Kumar	Victim/complainant.
PW-2	Shri Subhash Chand	Eye witness.
PW-3	C. Ankush Dhiman	Police/Panch witness.
PW-4	C. Arvind Kumar	Police/Panch witness.
PW-5	Smt. Saroj Kumari	Eye witness.
PW-6	ASI Ranjeet Singh	Police witness.
PW-7	ASI Sandeep Kumar	Police witness.
PW-8	HASI Mohinder Rana	Police witness.
PW-9	S.I. Deva Nand	Police witness.
PW-10	ASI Suresh Kumar	Police witness.
PW-11	Dr. Raj Rana	Medical witness.
PW-12	Shri Gurbachan Singh	Police witness/I.O.
PW-13	Shri Sanjay Kumar	Other witness/ Photographer.

B. Defence witnesses, if any:

State of H.P. -Versus- Ashwani Kumar and others.
CNR No.HPKA01-004261-2021.
CIS Registration No.178/2021.

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

---NIL---		

C. Court witnesses, if any:

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

----NIL----		

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution :

Sr.No.	Exhibit Number	Description.

1.	Ext.P-1	Letter written by the SDPO Palampur to the Tehsildar Palampur.

State of H.P. -Versus- Ashwani Kumar and others.
 CNR No.HPKA01-004261-2021.
 CIS Registration No.178/2021.

2.	Ext.P-2	Report of Patwari.
3.	Ext.P-3	Pedigree table of accused Omma Devi.
4.	Ext.P-4	Letter written by the Naib Tehsildar Panchrukhi to the SDPO Palampur.
5.	Ext.P-5	Report of Patwari.
6.	Ext.P-6	Pedigree table of complainant Santosh Kumar.
7.	Ext.P-7	Pedigree table of accuseds Ashwani Kumar and Jag Jeewan Lal.
8.	Ext.P-8	Letter written by the Naib Tehsildar Panchrukhi to the SDPO Palampur.
9.	Ext.P-9	Pedigree table of the accused Omma Devi.
10.	Ext.P-10	Report of Patwari.
11.	Ext.P-11	Letter written by the Naib Tehsildar Panchrukhi to the SDPO Palampur.
12.	Ext.P-12	Pedigree table of accused Sunil Kumar.
13.	Ext.P-13	Pedigree table of accused Sudesh Kumari.
14.	Ext.P-14	Report of Patwari.
15.	Ext.P-15	Gazette Notification of Scheduled Caste and Scheduled Tribes.
16.	Ext.P-16/PW-1	Complaint.
17.	Ext.P-17/PW-1	Memo vide which the Car No. HP-37D-1563

State of H.P. -Versus- Ashwani Kumar and others.
CNR No.HPKA01-004261-2021.
CIS Registration No.178/2021.

		was taken into possession by the police.
18.	Ext.P-18/PW-1	DVD.
19.	Ext.P-19/PW-1	Memo vide which the DVD was taken into possession by the police.
20.	Ext.P-20/PW-6	Certificate under Section 65-B of the Indian Evidence Act.
21.	Ext.P-21/PW-7	Spot Map.
22.	Ext.P-22/PW-7	Application made by the police to the Medical Officer, C.H. Palampur.
23.	Ext.P-23/PW-9	Order of S.P. Kangra at Dharamshala vide which the investigation of the case was entrusted to the SDPO Palampur.
24.	Ext.P-24/PW-11	MLC of the complainant Santosh Kumar.
25.	Ext.P-25/PW-12	DVD.
26.	Ext.P-26/PW-12	Certificate under Section 65-B of the Indian Evidence Act.
27.	Ext.P-27/PW-12	FIR.
28.	Ext.P-28/PW13	Certificate u/s 65-B of the Indian Evidence Act.

B. Defence :

Sr.No.	Exhibit Number	Description.
1.	Mark-D1	Copy of Sale Deed.

State of H.P. -Versus- Ashwani Kumar and others.
CNR No.HPKA01-004261-2021.
CIS Registration No.178/2021.

C. Court Exhibits :

Sr.No.	Exhibit Number	Description.

----NIL----		

D. Material Objects :

Sr.No.	Material Object Number	Description
----NIL----		

(Chirag Bhanu Singh)
Judge, Special Court,
Kangra at Dharamshala,
District Kangra (H.P.)

State of H.P. -Versus- Ashwani Kumar and others.
 CNR No.HPKA01-004261-2021.
 CIS Registration No.178/2021.

**Particulars of the accuseds and sureties
 furnished u/s 481 of B.N.S.S.**

Sr. No.	Name and address of the accused.	Name and address of the surety.
1.	Ashwani Kumar son of Shri Laxman Dass, resident of Village Parnoh, Post Office Panchrukhi, Tehsil Palampur, District Kangra (HP).	Satish Kumar son of Shri Brij Lal, resident of V.P.O. Chahri, Tehsil Nagrota Bagwan, District Kangra (HP).
2.	Jag Jeewan son of Laxman Dass, resident of Village Parnoh, Post Office Panchrukhi, Tehsil Palampur, District Kangra (HP).	Satish Kumar son of Shri Brij Lal, resident of V.P.O. Chahri, Tehsil Nagrota Bagwan, District Kangra (HP).
3.	Anil Kumar son of Late Shri Gambhir Chand, resident of Village Bagehar, Post Office Panchrukhi, Tehsil Palampur, District Kangra (HP)	Satish Kumar son of Shri Brij Lal, resident of V.P.O. Chahri, Tehsil Nagrota Bagwan, District Kangra (HP).
4.	Sunil Kumar son of Milap Chand, resident of Village Khurd Patt, Post Office Bhawarna, Tehsil Palampur, District Kangra (HP)	Rajinder Kumar son of Shri Mast Ram, resident of Ward No.3, Village Batahan, Tehsil Palampur, District Kangra (HP).
5.	Oma Devi wife of Sant Ram, resident of V.P.O. Panchrukhi, Tehsil Palampur, District Kangra (HP).	Rajinder Kumar son of Shri Mast Ram, resident of Ward No.3, Village Batahan, Tehsil Palampur, District Kangra (HP).
6.	Ashok Kumar son of Late Shri Sant Ram, resident of V.P.O. Panchrukhi, Tehsil Palampur, District Kangra (HP).	Rajinder Kumar son of Shri Mast Ram, resident of Ward No.3, Village Batahan, Tehsil Palampur, District Kangra (HP).

State of H.P. -Versus- Ashwani Kumar and others.
CNR No.HPKA01-004261-2021.
CIS Registration No.178/2021.

7.	Shanti Sharma @ Shilpa wife of Ashok Kumar, resident of V.P.O. Panchrukhi, Tehsil Palampur, District Kangra (HP)	Deep Mala C/o Shri Vikas Acharya, resident of Village Nagan, Post Office Kharanal, Tehsil Baijnath, District Kangra (HP).
8.	Satish Kumar son of Jag Jiwan Ram, resident of Village Parnoh, Post Office Panchrukhi, Tehsil Palampur, District Kangra (HP).	Deep Mala C/o Shri Vikas Acharya, resident of Village Nagan, Post Office Kharanal, Tehsil Baijnath, District Kangra (HP).
9.	Sudesh Kumari wife of Ashwani Kumar, resident of Village Parnoh, Post Office Panchrukhi, Tehsil Palampur, District Kangra (HP).	Deep Mala C/o Shri Vikas Acharya, resident of Village Nagan, Post Office Kharanal, Tehsil Baijnath, District Kangra (HP).

(Chirag Bhanu Singh)
Judge, Special Court,
Kangra at Dharamshala,
District Kangra (H.P.)