

(2014) 10 SHI CK 0100

High Court of Himachal Pradesh

Case No: Cr. Appeal Nos. 72 and 119 of 2008

State of H.P.

APPELLANT

Vs

Subhash Chand

RESPONDENT

Date of Decision: Oct. 14, 2014

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 154, 313, 378
- Penal Code, 1860 (IPC) - Section 307, 323, 325, 34, 506
- Probation of Offenders Act, 1958 - Section 11(2), 4

Citation: (2014) 3 ShimLC 1737

Hon'ble Judges: Sanjay Karol, J; Piar Singh Rana, J

Bench: Division Bench

Advocate: B.S. Parmar, Vikram Thakur, Dy. AG and J.S. Guleria, Assistant Advocate General, Advocate for the Appellant; Vinay Thakur, Advocate for the Respondent

Judgement

Piar Singh Rana, J.

Both appeals are filed against the same judgment and sentence passed by learned trial Court in Sessions Case No. 18-D/VII/05/03 titled State of Himachal Pradesh Vs. Subhash Chand and another decided on 29.8.2007 hence both appeals are consolidated and disposed of vide same judgment as they arise out of the same judgment passed by learned trial Court.

BRIEF FACTS OF THE PROSECUTION CASE:

2. Brief facts of the case as alleged by prosecution are that on dated 14.11.2002 at about 12.30 PM accused persons in furtherance of common intention voluntarily caused hurt to Smt. Kamla Devi wife of Sh. Amin Chand. It is further alleged by prosecution that accused persons also intimidated injured Smt. Kamla Devi to cause her death. It is further alleged by prosecution that on dated 14.11.2002 injured Smt. Kamla Devi and other family members were working in their field and were cleaning water channel at about 3 PM. It is further alleged by prosecution that co-accused

Rajinder Pal inflicted injuries upon the head of Smt. Kamla Devi with "Fauda" (Sharp edged weapon) and thereafter she fell down on the ground and became unconscious. It is further alleged by prosecution that thereafter beatings were given to Smt. Kamla Devi by accused persons. It is further alleged by prosecution that Smt. Kamla Devi suffered number of injuries upon her body. It is further alleged by prosecution that Anil Kumar and Sanjeev Kumar tried to rescue Kamla Devi but they also sustained injuries in the scuffle. It is further alleged by prosecution that statement of Sanjeev Kumar Ext PW4/A was recorded. It is further alleged by prosecution that police prepared site plan Ext PW12/A. It is further alleged by prosecution that medical examinations of Smt. Kamla Devi, Anil Kumar and Sanjeev Kumar were conducted. It is further alleged by prosecution that as per disclosure statement Ext PW5/B made by co-accused Rajinder Pal "Fauda" (Sharp edged weapon) was recovered by the police. It is further alleged by prosecution that police took into possession salwar Ext P2 and scarf Ext P3 of injured Kamla Devi and seizure memo Ext PW4/B was prepared. Charge was framed against accused persons under Sections 323, 307 and 506 read with Section 34 IPC on dated 14.5.2003. Accused persons did not plead guilty and claimed trial.

3. The prosecution examined as many as fourteen witnesses in support of its case:

4. Prosecution also produced following piece of documentary evidence in support of its case:-

5. Learned trial Court convicted accused persons under Sections 323, 325 and 506 IPC read with Section 34 IPC. Learned trial Court released the convicted persons u/s 4 of Probation of Offenders Act on their furnishing bonds to the tune of Rs. 25,000/- each to maintain good conduct and be of good behaviour for a period of two years. Learned trial Court also directed accused persons to pay compensation to the tune of Rs. 20,000/- (Twenty thousand) each to the injured persons. Feeling aggrieved against the judgment passed by learned Additional Sessions Judge Fast Track Court Kangra at Dharamshala two present appeals filed u/s 378 of the code of criminal procedure 1973 and u/s 11(2) of Probation of Offenders Act 1958.

6. We have heard learned Additional Advocate General appearing on behalf of the appellants and learned Advocate appearing on behalf of respondents and also gone through the entire record carefully.

7. Question that arises for determination before us in both appeals whether learned trial Court did not properly appreciate oral as well as documentary evidence placed on record and whether learned trial Court committed miscarriage of justice.

ORAL EVIDENCE ADDUCED BY PROSECUTION:

8. PW1 Dr Anupama Radiologist has stated that she was working as Registrar in RPGMC Dharamshala since September 1999. She has stated that injured Kamla Devi was referred to her vide MLC 651/2002. She has stated that x-ray of injured Kamla

Devi was conducted and as per x-ray report she did not see any fracture. She has stated that x-ray of the skull of injured Kamla Devi shows depressed fracture. She has stated that fracture could be possible with a blow of any hard object. She has stated that she issued x-ray report Ext PW1/A which bears her signature.

8.1 PW2 Dr Naresh Gupta has stated that he was posted as Medical Officer in Zonal Hospital Dharamshala since June 2001. He has stated that on dated 14.11.2002 at about 2.45 PM he examined injured Kamla Devi wife of Ami Chand resident of village Tangroti and observed following injuries. (1) There was contusion deep red in colour and 12 cm x 6 cm in size on the front of upper left leg and there was soft tissue swelling at the site and x-rays were advised. (2) There were multiple abrasions and lacerations along with soft tissue swelling on the middle of front of right thigh. (3) There was a split wound about 4 cm in length and $\frac{3}{4}$ cm in depth on the scalp in the middle and on the left side and the margins were irregular and averted. (4) On examination there was no external injury, no swelling and no tenderness were found. The injured was referred to Surgeon for examination and opinion. The injuries were caused with blunt weapon within a period of three hours of the examination. He has stated that x-ray examination reveals depressed fracture of left parietal bone. He has stated that injuries No. 1 and 2 were simple in nature and injury No. 3 was grievous. He has stated that he issued MLC Ext PW2/A which bears his signature. He identified injured Kamla Devi in Court. He has stated that injuries sustained by Smt. Kamla Devi could have been dangerous to life. He has stated that he also examined injured Sanjeev Kumar and observed following injuries. (1) There was a contusion deep red in colour on the front of lower half of right thigh and it was 6 cm x 4 cm in size. (2) There was contusion 6 cm x 4 cm in size and deep red in colour on the front of lower half of right thigh. He has stated that both injuries were simple and he issued MLC Ext PW2/D which bears his signature. He has stated that he also examined injured Anil Kumar and observed that there was swelling of the soft tissue on the outer aspect of upper half of left leg and pain in front of the neck. He has stated that both injuries were simple in nature caused with blunt weapon. He has stated that injuries could be possible with the blows of "Fauda" (Sharp edged weapon) Ext P1 and with sticks and fist blows. He has stated that injury No. 3 could be possible by way of fall on hard surface like a stone. He has stated that injuries mentioned in MLC of Anil Kumar and Sanjeev Kumar are superficial in nature. He has stated that injuries sustained by injured persons could have been dangerous to their life.

8.2 PW 3 Smt. Kamla Devi has stated she is illiterate. She has stated that her husband is working in CRPF at Ayodhya. She has stated that she has two sons. She has stated that younger son is working at Chandigarh and her elder son Anil Kumar is residing at village Ramehar Tangroti. She has stated that when she returned from village Pathiyar in the evening then her sister in law Sangindra Devi told her that accused persons namely Rajinder Pal and Subhash Chand abused her and thereafter she reported the matter to police. She has stated that on dated 14.11.2002 accused

persons were summoned by the police at police Chowki Yol at 3 PM. She has stated that at about 12.30 PM she and her sister in law Raj Kumari were in the field and her son Anil Kumar and Sanjeev Kumar were cleaning water channel to the field. She has stated that she and Raj Kumari were talking to each other while working in the field. She has stated that co-accused Subhash Chand came in the field armed with sticks and co-accused Rajinder Pal armed with "Fauda" (Sharp edged weapon). She has stated that co-accused Rajinder Pal threatened her that why she filed complaint against them in Police Chowki Yol and she replied that accused persons have abused her. She has stated that thereafter co-accused Rajinder Pal came to her and gave a blow of "Fauda" (Sharp edged weapon) on her head and she fell down on the ground and became unconscious. She has stated that her son and her nephew were also present at the spot. She has stated that she regained her consciousness at CMC Ludhiana. She has stated that she was medically examined and she identified the accused persons in Court. She has denied suggestion that she has sustained injury on account of fall on the ground. She denied suggestion that false case has been filed against accused persons. She denied suggestion that co-accused Rajinder Pal did not threat her in the field. She denied suggestion that co-accused Rajinder Pal was not armed with "Fauda" (Sharp edged weapon). She denied suggestion that Sanjeev Kumar and Anil Kumar were not cleaning water channel in the field.

8.3 PW4 Sanjeev Kumar has stated that on dated 14.11.2002 at about 12.30 PM he was irrigating his field. He has stated that Anil Kumar and Kamla Devi were also irrigating their field adjacent to his field. He has stated that when Kamla Devi and Raj Kumari were talking to each other in the field then co-accused Rajinder Pal came and inquired from Kamla Devi as to why she has filed complaint against him in police station Yol. He has stated that co-accused Subhash Chand was also present at the spot. He has stated that thereafter Kamla Devi replied to accused persons that because accused persons have quarreled with her in the evening and on account of quarrel she filed complaint in police chowki Yol. He has stated that thereafter co-accused Rajinder Pal had given blow of "Fauda" (Sharp edged weapon) on the head of Kamla Devi and co-accused Sanjeev Kumar had given beatings to Kamla Devi with sticks. He has stated that he and Anil Kumar and Raj Kumari had tried to rescue Kamla Devi from the clutches of co-accused Subhash Chand. He has stated that accused persons have also beaten him. He has stated that blood started oozing out from the wound of Kamla Devi and thereafter Kamla Devi fell down on the ground and became unconscious. He has stated that thereafter co-accused Rajinder Pal and co-accused Subhash Chand left the place of occurrence and also threatened with dire consequences. He has stated that thereafter injured Kamla Devi brought to zonal hospital Dharamshala for medical treatment. He has stated that police recorded his statement Ext PW4/A. He has stated that he was also medically examined by the doctor vide MLC Ext PW2/D which bears his signature. He has stated that Kamla Devi and Anil Kumar were also medically examined. He has stated that blood stained clothes of Kamla Devi were produced which were took into

possession by police vide memo Ext PW4/B. He denied suggestion that co-accused Rajinder Pal did not cause any injury on the head of Kamla Devi by way of "Fauda" (Sharp edged weapon). He denied suggestion that co-accused Subhash Chand did not give any beating with sticks. He denied suggestion that he and Anil Kumar did not try to rescue Kamla Devi from the clutches of accused persons. He denied suggestion that accused persons did not cause any injury to him and Anil Kumar. He denied suggestion that he was not present in his field. He denied suggestion that he did not see any verbal altercation between accused persons and Kamla Devi.

8.4 PW5 Anil Kumar has stated that on dated 14.11.2002 at about 12.30 PM he and his mother Kamla Devi were irrigating the field. He has stated that Sanjeev Kumar was also irrigating his field. He has stated that he and Sanjeev Kumar were cleaning water channel for smooth flowing of water in the canal. He has stated that his mother was talking with Raj Kumari. He has stated that accused persons came at the spot and asked his mother as to why she had filed a complaint against them in police post Yol. He has stated that his mother replied that she filed complaint in police post because accused persons have quarreled with her in the evening. He has stated that co-accused Rajinder Pal was armed with "Fauda" (Sharp edged weapon) in his hand. He has stated that both accused persons came into their field where his mother was standing. He has stated that thereafter co-accused Rajinder Pal gave a blow of "Fauda" (Sharp edged weapon) on the head of his mother and co-accused Subhash Chand gave beating to his mother with sticks. He has stated that his mother sustained injury and blood started oozing out from the head of his mother. He has stated that he, Sanjeev Kumar and Raj Kumari tried to rescue his mother. He has stated that thereafter accused persons also gave beatings to him and his brother Sanjeev Kumar. He has stated that he and Sanjeev Kumar sustained injuries. He has stated that accused persons also threatened them with dire consequence. He has stated that when his mother sustained injury on her head she fell down on the ground and became unconscious. He has stated that thereafter Sanjeev Kumar and other members of his family took his mother to zonal hospital Dharamsala for medical treatment. He has stated that thereafter injured persons were medically examined. He has stated that co-accused Subhash Chand handed over one stick to police officials vide memo Ext PW5/A. He has stated that co-accused Rajinder Pal gave disclosure statement Ext PW5/A to the police that he could recover "Fauda" (Sharp edged weapon) which was hidden in his house. He has stated that police has recovered "Fauda" (Sharp edged weapon) vide recovery memo Ext PW5/C. He has stated that salwar Ext P2 and scarf Ext P3 were the same which were worn by his mother Kamla Devi at the time of occurrence. He has stated that stick Ext P5 which was in possession of co-accused Subhash Chand and "Fauda" (Sharp edged weapon) Ext P1 was in possession of co-accused Rajinder Pal at the time of incident. He has stated that co-accused Rajinder Pal lodged report at Police Post Yol on dated 14.11.2002. He has stated that he does not know that Kamla Devi had caused injury on the knee portion. He has stated that he does not know that Raj Kumari and

Rattani Devi had given fist blows on the chest of co-accused Rajinder Pal. He has stated that he does not know that co-accused Rajinder Pal was brought to Primary Health Center Chamunda for medical examination. He has denied suggestion that co-accused Subhash Chand did not cause any injury to Kamla Devi by way of stick. He denied suggestion that he and Sanjeev Kumar did not rescue Kamla Devi from the clutches of accused persons. He denied suggestion that he was not present in the field. He denied suggestion that he did not see any fight between accused persons and Kamla Devi. He denied suggestion that being a son of Kamla Devi he deposed falsely.

8.5 PW 6 Smt. Raj Kumari has stated that on dated 14.11.2002 at about 12.30 PM she and Kamla Devi were talking with each other in the field. She has stated that Sanjeev Kumar and Anil Kumar were irrigating their fields. She has stated that co-accused Rajinder Pal asked from Kamla Devi as to why she filed criminal complaint. She has stated that Kamla Devi replied that because accused persons quarreled with Kamla Devi in the previous evening then she filed criminal complaint against accused persons. She has stated that co-accused Rajinder Pal was armed with "Fauda" (Sharp edged weapon) and co-accused Subhash Chand was armed with stick and thereafter accused persons started beating to Kamla Devi. She has stated that co-accused Rajinder Pal had given blow of "Fauda" (Sharp edged weapon) on the head of Kamla Devi. She has stated that co-accused Subhash Chand given beatings to Kamla Devi with stick blows. She has stated that when Anil Kumar and Sanjeev Kumar tried to rescue Kamla Devi from the clutches of accused persons then both accused persons also gave beatings to Anil Kumar and Sanjeev Kumar. She has stated that Kamla Devi received injuries on her head by way of "Fauda" blow and blood started oozing out from her wound. She has stated that Kamla Devi fell down on the ground and became unconscious. She has stated that accused persons have also threatened Kamla Devi with dire consequences when they left the place of incident. She has denied suggestion that Sanjeev Kumar and Anil Kumar were not irrigating their field. She denied suggestion that co-accused Rajinder Pal did not talk with Kamla Devi. She denied suggestion that co-accused Rajinder Pal had not given any blow of "Fauda" (Sharp edged weapon) on the head of Kamla Devi. She denied suggestion that co-accused Subhash Chand had not given any blow of stick to Kamla Devi. She denied suggestion that she was not present in the field. She denied suggestion that she did not see any dispute. She denied suggestion that accused persons did not cause any injury to Anil Kumar and Sanjeev Kumar. She denied suggestion that on account of close relation with Kamla Devi she deposed falsely against accused persons.

8.6 PW 7 Ami Chand has stated that he was working as Havaladar in CRPF at Chandigarh. He has stated that at the time of incident he was posted at Faizabad. He has stated that on dated 14.11.2002 he was informed telephonically by his son that co-accused Subhash Chand and co-accused Rajinder Pal had beaten his wife. He has stated that thereafter on dated 16.11.2002 he reached at home. He has stated that

he was informed that his wife was taken to CMC Ludhiana for medical treatment and thereafter he left to CMC Ludhiana. He has stated that his wife was not in a position to speak. He has stated that from 15.11.2002 to 30.11.2002 his wife remained admitted in CMC Ludhiana and thereafter she was discharged from hospital. He has stated that he took his wife to his house on dated 1.12.2002. He has stated that in his house the condition of his wife again became deteriorated and she was again admitted in CMC Ludhiana. He has stated that he handed over blood stained salwar Ext P2 and scarf Ext P3 of his wife to the police vide memo Ext PW4/B which bears his signature.

8.7 PW8 HC Madan Lal has stated that on dated 14.11.2002 vide DD No. 12 Ext PW8/A he went to zonal hospital Dharamshala where he recorded the statement of Sanjeev Kumar Ext PW4/A as per his version. He has stated that thereafter statement along with his endorsement Ext PW8/B was sent to Police Station Dharamshala for registration of case through Constable Parkash Chand. He has stated that he prepared an application for medical examination of injured Kamla Devi and Sanjeev Kumar and medical officer has opined that injured Kamla Devi was not fit to give any statement. He has stated that he obtained MLC report of Sanjeev Kumar Ext PW2/B and MLC Ext. PW2/A of Kamla Devi.

8.8 PW9 Asha Devi has stated that in the year 2002 she was posted as Investigating Officer at Police Station Dharamshala. She has stated that on dated 14.11.2002 a telephonic message was received from Medical Officer Zonal Hospital Dharamshala that two persons were brought to hospital in an injured condition. She has stated that information was recorded in daily diary No. 12 Ext PW8/A. She has stated that Constable Madan Lal along with other police officials were deputed to Zonal Hospital Dharamshala. She has stated that she received statement of Sanjeev Kumar u/s 154 Cr PC through HHC Parkash Chand. She has stated that she made endorsement on the same and recorded FIR Ext PW9/A which bears her signature and thereafter she handed over case file to HHC Parkash Chand.

8.9 PW 10 HC Gopal Singh has stated that in the year 2002 he was posted as Head Constable at police station Dharamshala. He has stated that he brought roznamcha register on dated 14.11.2002. He has stated that rapat No. 12 and 17 were received from police on the basis of which FIR was recorded. He has stated that case property and one parcel containing clothes were deposited with him by SI Gulzari Lal. He has stated that case property was intact till remained with him.

8.10 PW 11 Surinder Singh has stated that in the year 2002 he was posted as Station House Officer at police station Dharamshala. He has stated that on completion of investigation he prepared challan and submitted the same in Court.

8.11 PW 12 Vinod Kumar has stated that in the year 2002 he was posted as Incharge in police post Yol. He has stated that he received case file on dated 14.11.2002. He has stated that he recorded the statements of three witnesses namely Sanjeev

Kumar, Anil Kumar and Raj Kumari. He has stated that he proceeded to the spot on dated 15.11.2002 and prepared site plan Ext PW12/A. He has stated that after perusal MLC of Kamla Devi he added Section 307 IPC. He denied suggested that he has recorded false statement of Kamla Devi.

8.12 PW13 Gulzari Lal has stated that in the year 2002 he was posted as SI at Police Station Dharamshala. He has stated that on dated 16.11.2002 he received case file for investigation. He has stated that he recovered stick from co-accused Subhash Chand and he arrested co-accused Subhash Chand. He has stated that stick was taken into possession vide memo Ext PW5/A. He has stated that stick was identified by Sanjeev Kumar. He has stated that on dated 2.12.2002 co-accused Rajinder Pal was arrested by him. He has stated that clothes of Kamla Devi were also took into possession. He has stated that Salwar Ext P2 and scarf Ext P3 were took into possession vide memo Ext PW4/B. He has stated that on dated 4.12.2002 co-accused Rajinder Pal made a disclosure statement stating that he had hidden weapon of offence in his office. He has stated that stick and "Fauda" (Sharp edged weapon) were handed over to MHC during investigation. He has stated that information of arrest was provided to accused persons. He has stated that he also obtained opinion of the doctor. He has stated that he recorded the statements of the witnesses as per their deposition. He has stated that he was not aware that a report was lodged by co-accused Rajinder Pal against the complainant party in police post Yol. He has stated that he does not know that co-accused Rajinder Pal was medically examined. He has denied suggestion that he has suppressed material facts from Court. He denied suggestion that no disclosure statement was given by accused persons. He denied suggestion that stick was not recovered.

8.13 PW14 HHC Ram Parkash has stated that he was posted as Constable at police post Yol. He has stated that on dated 14.11.2002 Anil Kumar came to him and told that he was beaten by accused persons. He has stated that he made entry in the daily diary Ext PW14/A. He has stated that he sent Anil Kumar for medical examination through Constable Pardeep Kumar. He has stated that he informed Anil Kumar that injury was simple and does not disclose cognizable offence. He has stated that on dated 14.11.2002 co-accused Rajinder Pal had lodged a report in police post Yol regarding beatings.

9. Statements of accused persons were recorded u/s 313 Cr PC. Accused persons have stated that they have been falsely implicated in the present case.

(A) Finding in Criminal Appeal No. 72 of 2008 titled State of HP Vs. Subhash Chand filed u/s 378 of the Code of Criminal Procedure 1973.

10. Submission of learned Additional Advocate General appearing on behalf of State that intention of the accused persons was to kill Smt. Kamla Devi because injury was inflicted upon the head of injured Kamla Devi with "Fauda" (Sharp edged weapon) and accused persons be convicted u/s 307 read with section 34 IPC is rejected being

devoid of any force for the reason hereinafter mentioned. It was held in case reported in [Hari Kishan Vs. Sukhbir Singh and Others](#), that intention or knowledge of the accused must be such as is necessary to constitute murder. It was held in case reported in [Vasant Vithu Jadhav Vs. State of Maharashtra](#) that question of intention to kill or the knowledge of death in terms of Section 307 IPC is a question of fact and not one of law and it was held that it would dependent on the facts of case. It was held in case reported in 1997(2) crimes 157 MP titled Ansaruddin Vs. State of MP and others that it is not necessary that injury capable of causing death should have been inflicted. It was held that material to attract the provisions of Section 307 IPC is the guilty intention or knowledge with which the act was performed irrespective of its result. It was held that intention and knowledge should be inferred from the totality of circumstances and cannot be measured merely from the results. It was held in case reported in [State of Madhya Pradesh Vs. Saleem @ Chamaru and Another](#), that Court has to see whether the act irrespective of its result was done with the intention or knowledge to cause death. It was held in case reported in [Sarju Prasad Vs. State of Bihar](#), that intention or knowledge should be gathered from the following factors. (1) Nature of the weapon used (2) Intention of the accused at the time of act. (3) Motive of the accused. (4) Portion where the injury caused. (5) Severity and persistence of blows given. It was held in case reported in [Abhayanand Mishra Vs. The State of Bihar](#), that attempt to commit an offence can be said to begin when the preparations are complete and the culprit commences to do something with the intention of committing the offence which is a step towards the commission of the offence. It was held in case reported in [State of Maharashtra Vs. Mohd. Yakub and Others](#), that attempt u/s 307 IPC is a mixed question of fact and law depending largely on the circumstances of each particular case. It was held in case reported in [Om Parkash Vs. The State of Punjab](#), that offence u/s 307 IPC is committed when the accused has an intention to commit murder and in pursuance of that intention does an act towards its commission irrespective of the fact whether that act is the penultimate act or not. In the present case it is proved on record that one single blow injury was given upon the head of injured Kamla Devi by co-accused Rajinder Pal. It is also proved on record that thereafter injured Kamla Devi became unconscious and fell down on the ground. It is also proved on record that thereafter accused persons did not inflict any injury upon Kamla Devi and left the place of incident. The fact that accused persons did not give another blow to injured Kamla Devi when she fell down upon the ground despite having opportunity to do so clearly proves beyond reasonable doubt that accused persons have no intention or knowledge to kill the injured in the present case. Even as per testimony of PW1 Dr Anupama only depressed fracture was observed. PW2 Dr Naresh Gupta has stated that depressed fracture upon left parietal bone was observed. In view of the above stated facts we hold that learned trial Court has rightly held that accused persons have no intention and knowledge to kill injured Kamla Devi and we hold that learned trial Court has rightly acquitted the accused persons qua offence punishable u/s 307 IPC. We also hold that learned trial Court has properly appreciated oral as well as

documentary evidence placed on record qua offence punishable u/s 307 IPC.

(B) Finding in Criminal Appeal No. 119 of 2008 titled State of HP Vs. Subhash Chand and another filed u/s 11(2) of Probation of Offenders Act 1958.

11. Submission of learned Additional Advocate General appearing on behalf of the appellants that learned trial Court has illegally granted benefit of Probation of Offenders Act 1958 to the convicted persons in the present case is rejected being devoid of any force for the reason hereinafter mentioned. Power of the Court to release certain offenders on probation of good conduct has been defined u/s 4 of the Probation of Offenders Act 1958. As per section 4 of the Probation of Offenders Act 1958 when any person is found guilty of having committed an offence not punishable with death or imprisonment for life then benefit of Probation of Offenders Act 1958 can be granted by the Court. In the present case the accused persons have been convicted under Sections 323, 325 and 506 read with Section 34 IPC. The maximum sentence of imprisonment u/s 323 IPC is one year, u/s 325 IPC is seven years and u/s 506 in Part II is seven years. It is held that offence punishable under Sections 323, 325 and 506 IPC read with Section 34 IPC are covered under the Probation of Offenders Act 1958. Learned trial Court had granted the benefit of Probation of Offenders Act 1958 to the convicted persons after obtaining the report of District Welfare-cum-Probation Officer Kangra at Dharamshala. Learned Probation Officer has submitted in his report that convicted persons bear good moral character and antecedents. Learned District Welfare-cum-Probation Officer Kangra at Dharamshala has recommended for the release of the convicted persons under the Probation of Offenders Act 1958. Learned Probation Officer had also sought the report of Pradhan Gram panchayat Tangroti District Kangra HP and also recorded the statement of local people where the convicted persons are residing. In view of the recommendation of the Probation Officer learned trial Court has rightly granted the benefit of Probation of Offenders Act 1958 to the convicted persons in the present case.

12. Submission of learned Additional Advocate General that learned trial Court has not granted adequate compensation to injured persons keeping in view the fact that injury was inflicted upon the head of Kamla Devi by way of "Fauda" (Sharp edged weapon) and keeping in view the medical report injured Kamla Devi had sustained depressed fracture upon her head on account of injuries inflicted by convicted persons is accepted for the reason hereinafter mentioned. Learned trial Court had directed the convicted persons to pay compensation amount to the tune of Rs. 20,000/- (Twenty thousand) each to three injured persons. We hold that learned trial Court has not granted adequate compensation to injured persons keeping in view the injuries sustained by injured persons. We hold that enhancement of compensation amount is essential in the present case in the ends of justice.

13. In view of the above stated facts we hold that adequate compensation has not been awarded to injured persons in the present case by learned trial Court. Hence

considering the nature of injuries sustained by the injured persons we enhanced compensation amount to the tune of Rs. 1,00,000/- (One lac). Out of total compensation amount Rs. 60,000/- (Sixty thousand) will be paid to injured Smt. Kamla Devi and remaining amount of Rs. 40,000/- will be paid to both injured Sanjeev Kumar and Anil Kumar equally. Sentence part of learned trial Court modified to this extent only and we affirmed judgment part of learned trial Court. Both appeals are disposed of. A certified copy of the judgment will be placed in Criminal Appeal No. 119 of 2008 titled State of HP Vs. Subhash Chand. Records of learned trial Court be sent back forthwith along with certify copy of judgment for compliance forthwith. Pending application(s) if any are also disposed of.