



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 104 OF 2022
[@ SLP(Crl.)No. 9906 of 2016]

RAM KUMAR & ANR. APPELLANTS

v.

THE STATE OF HARYANA RESPONDENT

J U D G M E N T

ABHAY S. OKA, J.

Leave granted.

1. The appellants are the original accused nos.1 and 6. Apart from the appellants, five other accused were prosecuted for the offences punishable under Sections 148, 323, 325 and 149 of Indian Penal Code (for short "IPC"). The learned Additional Chief Judicial Magistrate convicted all the seven accused for the offences for which they were prosecuted. Following punishments were imposed on all seven accused:

“Under Section 148 IPC Rigorous imprisonment for a period of three months and to pay a fine of Rs. 500/- each and in case of non-payment of fine, convicts shall further undergo rigorous imprisonment for 15 days each.

Under Section 323/149 IPC Rigorous imprisonment for a period of six months and to pay a fine of Rs. 500/- each and in case of non-payment of fine, convicts shall further undergo rigorous imprisonment for one month each.

Under Section 325/149 IPC Rigorous imprisonment for a period of one year and to pay a fine of Rs. 500/- each and in case of non-payment of fine, convicts shall further undergo rigorous imprisonment for two month each”.

An appeal was preferred by the accused before the Sessions Court. The appeal was dismissed. Being aggrieved by the aforesaid judgments and orders, a criminal revision petition was filed by the accused before the High Court of Punjab and Haryana. By the impugned judgment and order, the revision petition was dismissed. However, with regard to the accused nos.2 to 5 and 7, while dismissing the revision petition, their sentence was reduced by the High Court to the one already undergone by them.

2. Shri Jawahar Narang, the learned counsel appearing for the appellants submitted that there is no difference between the role ascribed to the appellants and the role ascribed to the accused who were given

benefit by the High Court of being let off on the sentence already undergone. He submitted that the High Court has not recorded any reasons for giving a different treatment to the present appellants.

3. Shri Birendra Kumar Chaudhary, the learned AAG representing the respondent-State of Haryana invited our attention to the injuries sustained by PW1 Mahabir, PW2 Balwan, PW3 Narender and PW4 Sheela Devi, as well as PW5 Usha Devi. He submitted that there was a fracture of two ribs of PW1 Mahabir. He submitted that the case of the prosecution that the present appellants gave blows of lathi on the injured witnesses has been established. He would, therefore, submit that no interference is called for.

4. We have carefully perused the depositions of the injured witnesses (PW1 to PW5). The depositions of the witnesses reveal that lathis were used as weapons of assault by all the accused. As per the version of PW2 Balwan, the accused no.3 used iron rod as a weapon to give a blow on his elbow. Perusal of the judgment of the Trial Court shows that all the accused were convicted with the aid of Section 149 of IPC. In fact, the finding in paragraph 18 of the judgment of the Trial Court is that all the accused collectively caused injuries to PW1 to PW5 in furtherance of their common object. Trial Court has held that there was a minor discrepancy in the evidence of the prosecution witnesses as PW2 Balwan referred to an

iron rod instead of referring to a lathi. Even the Sessions Court while affirming the finding of the Trial Court has noted that all the accused made an assault on injured witnesses by use of lathis.

5. The High Court, as pointed out earlier, has let off other five accused on the sentence which is already undergone to them. The High Court has not given reasons why the same benefit was not extended to the appellants. There is no difference in the role ascribed to the appellants and the other accused. It is pointed out across the bar that the appellants have undergone sentence for six weeks. The incident is of 2008. Therefore, taking into account the facts of the case, there was no reason to deny the benefit to the appellants which was extended to the other five accused by the High Court. To that extent, the appeal will have to be allowed. The substantive sentence of the appellants (accused nos.1 and 6) is reduced to the sentence already undergone by them.

6. The appeal is allowed in the above terms. All the pending applications, if any, stand disposed of.

.....J
(AJAY RASTOGI)

.....J
(ABHAY S. OKA)

New Delhi;
January 19, 2022.