

ö#

Cr1.A.No. 1094 OF 1997
ITEM NO. 102COURT NO.09 SECTION IIA

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO. 1094/1997

Sushila Devi
...
APPELLANT (S)

VERSUS

State of Haryana
...
RESPONDENT (S)

(With Office Report)

Date :11
03/2004
This Appeal was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE K.G. BALAKRISHNAN
HON'BLE MR. JUSTICE B.N. SRIKRISHNA

For Appellant (s)Mr. U.U.Lalit,Adv. for
Mr. Satish Vig,Adv.

For Respondent (s)M/s. D.P.Singh,Sanjay Jain and
Vinay Kumar Garg,Advs.

UPON hearing counsel, the Court made the following
O R D E R

Heard Mr. U.U.Lalit, the learned counsel for the appellant from 12.20 p.m. at 12.40 p.m. and
Mr. Sanjay Jain, the learned counsel for the State for ten minutes thereafter.
The appeal is allowed in terms of order.

(Y.P.Dhamija)
AR-cum-PS

(Veera Verma)
Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1094 OF 1997

Sushila Devi
...
APPELLANT (S)

VERSUS

State of Haryana
...
RESPONDENT (S)

O R D E R

The appellant Sushila Devi along with her son was tried for offences punishable under sections 307, 326 and 323 read with section 34 IPC. The appellant Sushila Devi and Ashok were found guilty against the charges framed and the appellant was sentenced to imprisonment for 3 years for the offence punishable under section 307 read with section 34 and 2 years for the offence punishable under section 326 read with section 34 and 6 months for the offence punishable under section 323/34 IPC.

The incident occurred on 11.12.1992 at about 7.30 p.m. The case against the appellant was that she along with the other accused caused injuries to PW-6 and PW-7. There were property disputes between the appellant and her husband on the one hand and Pws.6-7 on the other hand. Pws.6-7 are the children of the brother of the appellant's husband Babu Ram. PW-6 and PW-7 were demanding share in certain properties allegedly in the possession of Babu Ram, which originally belonged to his deceased brother. It appears that there were occasional quarrels between the appellant and the rival group. According to the prosecution, on the date of the incident the appellant and her children, who are the other accused, went to the house of Pws.6 and 7 and caused injuries to them. The co-accused Ashok was armed with a gandasa and the appellant and other two children were armed with lathis. The Trial Court as well as the High Court convicted the appellant by invoking section 34 on the assumption that the appellant also caused injuries and shared the common intention of causing grievous injuries and attempt to commit murder of PW-6. The conviction and sentence entered against the appellant is challenged before us. We heard the learned counsel for the appellant and also the counsel for the State. The counsel for the appellant brought our notice the various injuries sustained by Pws.6-7. The grievous injuries suffered by Pws.6-7 were caused by sharp cutting weapons and it must have been by the use of gandasa held by the accused Ashok. Both the injured suffered certain lacerated injuries, obviously caused by lathi. It is pertinent to note that PW-7 in the cross-examination admitted that he had not given a statement to the police that the appellant had caused injuries to him with lathi on his head. PW-8, who is an independent witness, also deposed that she did not give any statement to the police to the effect that the appellant Sushila Devi had inflicted lathi blow to PW-7.

The evidence adduced by the prosecution would only show that the appellant had also participated in causing injuries to Pws.6 and 7 but the extent of injuries caused by appellant is not clearly evident. It is also pertinent to note that two other accused were armed with lathis. Under the circumstances, we do not think that the Court was justified in holding that she shared the common intention in causing grievous hurt. At the most the offence committed by appellant would come under section 323 read with section 34. We are told that she had already undergone imprisonment for a period of 3 months. The period already undergone by the appellant would be sufficient to meet the ends of justice. The appellant is on bail. Bail bonds executed by her shall stand cancelled.

The appeal is allowed.

.....J.
(K.G. BALAKRISHNAN)

.....J.
(B.N. SRIKRISHNA)
New Delhi,

March 11, 2004.