

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 819 OF 2004

DARSHAN YADAV & ORS.

Appellant (s)

VERSUS

STATE OF U.P.

Respondent(s)

(With appln(s) for bail)

Date: 29/03/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE H.K. SEMA

For Appellant(s)

Mr. Sushil Kumar. Jain, adv.

Mr. Pramode Kr. Sharma, Adv.

Mr. H.D. Thanvi, Adv.

Mr. Sarad Singhania, Adv.

Ms. Pratibha Jain,Adv.

For Respondent(s)

Ms. Savitri Pandey, Adv.

Mr. Abhishek Chaudhary, Adv.

Mr. Ravi Prakash Mehrotra,Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard the parties.

Appeal fails and the same is dismissed in terms of the signed order.

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 819 OF 2004

Darshan Yadav & Ors.	..	Appellant(s)
Versus		
State of U.P.	..	Respondent(s)

O R D E R

Heard the parties.

The three appellants along with other four accused persons namely, Nihore, Kishore, Deoraj and Siyaram were tried and by judgment rendered by the trial Court while accused Deoraj was acquitted, the appellants and others were convicted under Sections 302/149 of the Indian Penal Code [for short, IPC] and each one of them was sentenced to undergo imprisonment for life. They were further convicted under Sections 326/149 IPC and Sections 323/149 IPC and each one of them was sentenced to undergo rigorous imprisonment for a period of two years and six months respectively. Accused Rajdeo and Lalji were also convicted under Section 148 IPC and each one of them was sentenced to undergo rigorous imprisonment for a period of two years whereas other four accused were convicted under Section 147 IPC and each one of them was sentenced to undergo rigorous imprisonment for a perio

d of one

year. All the sentences, however, were ordered to run concurrently. Against the order of

acquittal of accused Deoraj, no appeal was preferred whereas an appeal was preferred before

the High Court on behalf of other six

..2/-

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accused persons. The High Court acquitted accused Nihore, Kishore and Siya Ram. So far as other three accused are concerned, who are the appellants, their convictions under Sections 302/149 IPC and 326/149 IPC have been converted into Section 302 read with Section 34 IPC and Section 326 read with Section 34 IPC while sentences awarded against them by the trial Court have been maintained. Hence, this appeal by special leave.

It appears that at the time of grant of leave a limited rule was issued in relation to

the nature of offence only. It has been submitted that only one injury is said to have been

inflicted and the same cannot give rise to offence under Section 302 IPC. Accused Raj Deo is

said to have inflicted injury by ballam which is a sharp cutting weapon. Dr. Ram Lal Rai

(P.W.4) who held post mortem examination found serious injuries in the abdomen of the

deceased. He has reported that lower intestine was cut through and through. That apart, the

doctor further stated that the injury suffered by the victim was sufficient to cause death in the

ordinary course of nature. In view of these facts, we are of the view that a case under Section

302 IPC is clearly made out and the High Court was quite justified in converting convictions o

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the appellants from Sections 302/149 IPC to Section 302 read

..3/-

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with Section 34 IPC. This being the position, we do not find any ground to interfere with the impugned order.

Accordingly, appeal fails and the same is dismissed.

. AGRAWAL]

.....J[B.N

H.K. SEMA]

.....J [

NEW DELHI,

MARCH 29, 2005.