

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL Nos. 611 of 1999@@  
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Ramanand & Anr. ..Appellants

Vs.

State of U.P. ..Respondent

O R D E R@@  
EEEEEEEEEE

.....L.....I.....T.....T.....T.....T.....T.....T.....T....J  
.SP2

Five persons were tried before the Sessions Court and three of them were convicted under Section 302 read with Section 34 of the Indian Penal Code. They approached the High Court in appeal where they putforward a defence of right of private defence. The High Court found that initially aggression was on the part of the deceased and his party. However, the High Court did not concede the entire right of private defence to the accused and hence found them as having exceeded the limit permitted by law. Accordingly, the High Court convicted the three persons under Section 304 Part I with the help of Section 34 of the Indian Penal Code.

One of them, namely, Radhey Shyam, filed an appeal in this court by way of special leave. His appeal was separately dealt with and disposed of on 16.10.1998, holding that Radhey Shyam inasmuch as he inflicted injuries on prosecution witness Raja Ram is liable to be convicted under Section 325 of the ..2/-

:2:

IPC. Accordingly the conviction was altered to the said section and the sentence was reduced to rigorous imprisonment for a period of two years. The said judgment is reported in JT 1998 (7) SC 197.@@

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Learned counsel for the appellants submitted that the offence as for appellant Ramanand can be altered to Section 304 Part II of the IPC. We do not find any scope in doing so. All the same we are considering the scope of reducing the sentence to some extent as the weapon used by appellant - Ramanand was a wooden stick. Of course, the injury which he inflicted was on the head of the deceased. Ramanand had himself sustained four injuries out of which two were on the head. According to the prosecution those injuries were not inflicted by the deceased but by a third party who intervened in the occurrence. Whatever it be, taking the conspectus of the facts we are inclined to reduce the sentence of Ramanand to rigorous imprisonment for a period of five years under Section 304 Part I of the IPC. We do so.

In the case of Bachchu Lal there is no reason to treat him differently from what this court treated the case of

Radhey Shyam. Admittedly, Bachchu Lal did not inflict the injury on the deceased and so this may be a case in which he inflicted injury on Raja Ram. We, therefore, alter his conviction to Section 325 IPC and sentence him to rigorous imprisonment for a period of 2 years.

..3/-

:3:

We are told that appellant - Bachchu Lal had already completed jail sentence of more than the term we have imposed hereinbefore. If that be so, he should be released forthwith if he is not required in any other case. Ramanand need be released only on his completion of sentence imposed by us.

The appeals are disposed of accordingly.

.SP1

.....J.@@  
BB  
(K.T. THOMAS)@@  
BB

.....J.@@  
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(R.P. SETHI)@@

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NEW DELHI@@  
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JANUARY 16, 2001 @@  
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L.....T.....T.....T.....T.....T.....T.....T.....T.....T.....R  
IN THE SUPREME COURT OF INDIA

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NEW DELHI@@

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JANUARY 16, 2001 @@

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L.....T.....T.....T.....T.....T.....T.....T.....T.....T.....R  
ITEM NO. 106 COURT NO. 5 SECTION II

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

Criminal Appeal No. 611/1999

Ramanand & Anr.

Appellants

VERSUS

State of U.P.

Respondent

Date : 16/01/2001 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.T. THOMAS  
HON'BLE MR. JUSTICE R.P. SETHI

For Appellant Mr. B.D. Sharma,Adv.

For Respondent Mr. Prashant Choudhary,Adv.  
for Mr. Pramod Swarup,Adv.

UPON being mentioned the Court made the following

O R D E R

.....L.....I.....T.....T.....T.....T.....T.....T.....J.  
.....L.....I.....T.....T.....T.....T.....T.....T.....J.  
.....L.....I.....T.....T.....T.....T.....T.....T.....J.

.SP2  
Appeal is disposed of in terms of the signed order.  
.SP1

(N.K. GOEL) (D.D. JINDAL) @@  
BB  
COURT MASTER COURT MASTER@@  
BB  
(Signed order is placed on the file)