

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 58-59 OF 2012

TEJ NARAIN

APPELLANT(S)

VERSUS

THE STATE OF UTTAR PRADESH

RESPONDENT(S)

WITH

CRIMINAL APPEAL NO(S). 847-848 OF 2012

KAMLESH & ORS.

APPELLANT(S)

VERSUS

THE STATE OF UTTAR PRADESH

RESPONDENT(S)

ORDER

1. The present set of appeals arise out of the two judgments and orders dated 28.07.2004 and 31.01.2011 passed by the High Court of Judicature at Allahabad, Lucknow, in Criminal Appeal No. 728 of 1980. There being a difference of opinion between two Judges, they delivered two separate judgments on 28.07.2004 and then the appeal was heard by the third Judge.

2. Justice Khem Karan (as he then was) dismissed the appeal preferred by the appellants- accused and confirmed the judgment of conviction and sentence passed by the Trial Court. However, Justice

P.K. Chatterji (as he then was) allowed the appeal and acquitted all the accused from the charges levelled against them. Thereafter, the matter having been referred to the third Judge, Justice S.N.H. Zaidi (as he then was) concurred with the opinion rendered by Justice Khem Karan and dismissed the appeal vide judgment and order dated 31.01.2011.

3. The short facts giving rise to the present set of appeals are that the complainant-Bhulai had lodged a complaint on 24.06.1977 alleging, *inter alia*, that his father-Ram Lal was a cobbler. Some enmity between the Thakurs and Brahmins of his village was going on in respect of lifting of dead animals from their houses. On 24.06.1977, he and his son Badri were ploughing the field located in the western side of the village, and at that time, Raj Kumar S/o Chotey Lal, Faqirey S/o Shiv Shankar, Rakesh S/o Faqirey, Shesh Narain S/o Gaya Prasad, Vinod S/o Gaya Prasad, Gaya Prasad S/o Bodi Prasad, Tej Narain S/o Chotey Lal, Babu Singh S/o Basant Singh, Jagdamba Singh S/o Basant Singh, Mathura S/o Nand Kishore and Kamlesh S/o Saligram, all belonging to Brahmin community, came with lethal weapons like pistol and lathi and started quarrelling with them. In the meantime, Raj Kumar fired with his gun targeting his son Badri, Faqirey fired at him with countrymade pistol, Ram Pal fired openly from his gun, due to which Baladin, a villager, got injured. They all started assaulting the complainant and others with lathi. Raj Kumar again fired with his gun at Balraj. Thereafter, all the accused ran away. His son Badri, Baladin, Jag Jeevan, Puttilal and Balraj having sustained injuries on account of firing and lathi, initially the complaint was lodged for the

offence under Sections 307, 323 and 147 etc. of IPC, however, subsequently Badri and Baladin succumbed to the injuries and hence the offence under Section 302 was also added.

4. The trial had proceeded against the twelve accused and the Trial Court convicted them vide the judgment and order dated 27.11.1980. The relevant part of conviction and sentence reads as under: -

"Accused Raj Kumar is convicted under Section 302 IPC and is sentenced to life imprisonment. This accused is also convicted under Section 324 IPC and is sentenced to two years R.I. This accused is also convicted under Section 148 IPC and is sentenced to 18 months R.I. All these sentences shall run concurrently. Accused Ram Pal is convicted under Section 302 IPC and is sentenced to life imprisonment. He is also convicted under Section 148 IPC and is sentenced to 18 months R.I. Both these sentences shall run concurrently. Accused Faquire is convicted under Section 307 IPC and is sentenced to four years R.I. He is also convicted under Section 148 IPC and is sentenced to 18 months R.I. Both these sentences shall run concurrently. Accused Mathura, Gaya Prasad, Shesh Narain, Rakesh, Vinod, Tej Narain, Babu Singh, Jagdamba Singh and Kamlesh, are convicted under Section 323 IPC read with Section 149 IPC and each of them is sentenced to one year R.I. Each of these 9 accused is also convicted under Section 147 IPC and is

sentenced to six months RI. Both the sentences shall run concurrently. Accused not convicted the charges against them are acquitted therefrom."

5. Being aggrieved by the said judgment and order of the conviction and sentence, all the twelve accused had preferred the appeal, which came to be disposed of as stated hereinabove.

6. Heard learned counsel for the parties.

7. It appears that out of the twelve appellants- accused before the High Court, three appellants, i.e., Babu Singh, Jagdamba and Mathura died during the pendency of the appeals. It further appears that except the present five appellants in this set of appeals, others had chosen not to prefer the appeals.

8. So far as the present appellants-accused are concerned, they were convicted by the Trial Court for the offences under Section 323 read with 149 of IPC and directed to undergo one year of rigorous imprisonment. They were also convicted for the offence under Section 147 and directed to undergo six months of rigorous imprisonment.

9. The said conviction and sentence have been confirmed by the High Court vide the impugned judgments and orders.

10. Having regard to the evidence on record and having gone through the judgments and orders, passed by the Trial Court and the High Court, we are of the opinion that both the Courts have rightly appreciated the evidence, and sentenced the appellants considering their respective roles in the alleged incident.

11. The impugned judgments and orders passed by the High Court, being just and proper, do not warrant any interference of this Court.

12. In that view of the matters, all the appeals stand dismissed.

13. Pending application(s), if any, shall stand disposed of.

..... J.
[BELA M. TRIVEDI]

..... J.
[DIPANKAR DATTA]

NEW DELHI;
AUGUST 23, 2023.

ITEM NO.102

COURT NO.15

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 S

Criminal Appeal No(s). 58-59/2012

TEJ NARAIN

Appellant(s)

VERSUS

THE STATE OF UTTAR PRADESH

Respondent(s)

WITH

Crl.A. No. 847-848/2012 (II)

Date : 23-08-2023 These appeals were called on for hearing today.

CORAM : HON'BLE MS. JUSTICE BELA M. TRIVEDI

HON'BLE MR. JUSTICE DIPANKAR DATTA

For Appellant(s) M/S. Equity Lex Associates, AOR
Mr. Salman Khurshid, Sr. Adv.
Mrs. Naghma Imtiaz, Adv.
Mr. Zargham Ahmed, Adv.
Mr. Saif Naseem, Adv.
Mr. Ishu Dixit, Adv.
Ms. Riddhi Goyal, Adv.

For Respondent(s) Mr. Ardhendumauli Kumar Prasad, A.A.G.
Mr. Rohit K. Singh, AOR
Mr. Ashish Madan, Adv.
Ms. Ananya Sahu, Adv.

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

The appeals are dismissed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(POOJA SHARMA)
COURT MASTER (SH)(R.S. NARAYANAN)
ASSISTANT REGISTRAR

(Signed order is placed on the file)