

Court No. - 16

Case :- CRIMINAL APPEAL No. - 2643 of 2006

Appellant :- Jhinguri And 4 Others

Respondent :- State of U.P.

Counsel for Appellant :- Ajay Kumar Singh, Ashok K Tripathi

Counsel for Respondent :- Govt. Advocate

Hon'ble Shamim Ahmed, J.

1. List of cases have been revised and the case is being taken up in the revised call for hearing.
2. Heard learned counsel for the parties.
3. The present Criminal Appeal under Section 374(2) Cr.P.C. against the Judgment and Order dated 10.10.2006, passed by Sri Rajiv Lochan Mehrotra, Additional Sessions Judge, Court No. 4, Pratapgarh in S.T. No. 143/04 (Case Crime No. 1384/02) under Sections 147, 427/149, 504, 506(2), 323/149 of the Indian Penal Code, P.S. Kandhai, District Pratapgarh, directing the appellants to deposit a personal bond of ₹10,000/- and two bail bonds of the same amount before the Presiding Officer within seven days from the order of the Court, with default stipulation.
4. The learned counsel for the appellants submits that the judgment and order dated 10.10.2006 passed by the court below is illegal, erroneous, perverse, and contrary to the evidence on record and the provisions of law.
5. The learned counsel for the appellants further submits that the appellants have sustained significant injuries, and their F.I.R. was also lodged under Section 307 I.P.C. However, the court below has failed to consider the true aspects of the case and passed an order that is unsustainable in law.

6. The learned counsel for the appellants further submits that in the cross case filed by the opponents of the appellants, namely Ram Pyare, Ram Kuber (sons of Ran Autar), Ram Bahadur, Ram Dular (sons of Bhagwat Prasad), and Lalta Prasad (son of Ram Augar), an F.I.R. was lodged against the appellants under Case Crime No. 138/02 under Sections 147, 323/149, 324/149, 325/149, 504, 506(2), 308/149 I.P.C. The trial court acquitted all the accused in this case vide its order dated 10.10.2006. However, the court below passed an order in the simple sections alleged to have been committed by the appellants, requiring them to maintain peace for one year and imposed a personal bond of ₹10,000/- with two sureties of the same amount, to be furnished within seven days from the date of the order.

7. The learned counsel for the appellants further submits that the appellants also received grievous injuries during the alleged incident, and the opponents of the appellants were also charged under Section 308 I.P.C. Yet, the trial court failed to consider this fact, acquitting the opponents in S.T. No. 142/03.

8. The learned counsel for the appellants further submits that P.W. 2, i.e., Lalta Prasad, son of Ram Autar, stated in his cross-examination recorded under Section 164 Cr.P.C. that he was not beaten by anyone.

9. The learned counsel for the appellants further submits that there is admitted enmity between the appellants and their opponents. Despite the appellants sustaining grievous injuries, and Section 308 I.P.C. being invoked against the opponents, the latter were acquitted. The trial court committed a manifest error in imposing personal bonds and bail bonds of ₹10,000/- for one year, which is illegal and contrary to the evidence on record and the provisions of law. Thus, the learned counsel for the appellants submits that the order passed by the trial court is liable to be set aside.

10. The learned AGA (Assistant Government Advocate) submits that the judgment and order dated 10.10.2006 passed by the court below is based on proper appreciation of evidence, and there is no illegality or perversity in the findings of the trial court.

11. The learned AGA (Assistant Government Advocate) further submits that the appellants have failed to provide sufficient evidence to support their claims of injuries, and the F.I.R. lodged under Section 307 I.P.C. does not stand substantiated by the material on record.

12. The learned AGA (Assistant Government Advocate) further submits the cross case filed by the opponents of the appellants, wherein they were acquitted, was duly considered by the court, and the trial court's acquittal of the accused in the cross case was well-founded and supported by the evidence on record.

13. The learned AGA (Assistant Government Advocate) further submits the statement of P.W. 2, Lalta Prasad, regarding his cross-examination under Section 164 Cr.P.C., does not negate the overall evidence presented by the prosecution, which sufficiently implicates the appellants.

14. The learned AGA further submits the trial court's imposition of personal bonds and bail bonds of ₹10,000/- for one year is reasonable and justified based on the circumstances of the case, and no manifest error has been committed by the court. Therefore, the learned AGA submits that the judgment and order of the trial court are sound, and the appeal filed by the appellants should be dismissed.

15. Upon careful examination of the records, submissions made by the learned counsel for the appellants, and the learned Assistant Government Advocate, the following conclusions are drawn:

16. The incident in question revolves around a dispute related to the operation of a tubewell by the complainant, Lakshmi Prasad, which allegedly affected the well of the appellant Matadeen. Both parties filed cross First Information Reports (F.I.R.s), with allegations of assault and damage to property. The trial court correctly noted that the dispute arose from the tubewell operation, which was draining water from Matadeen's well, thereby causing the conflict.

17. It is apparent from the case records and the evidence presented that the primary cause of the altercation was the operation of the tubewell by the complainant. The trial court rightly identified that the appellants had a motive

for their actions, as they believed their water supply was being compromised. This is further supported by the damaged engine found at the scene of the incident, which corroborates the prosecution's version that the appellants were involved in damaging the complainant's engine.

18. The trial court thoroughly assessed the evidence, including witness statements and material exhibits. While the appellants were accused of issuing threats and using abusive language under Sections 504 and 506 I.P.C., the prosecution failed to provide sufficient evidence to establish these charges beyond reasonable doubt. The trial court, therefore, correctly acquitted the appellants of these charges.

19. The trial court, however, found credible evidence to convict the appellants under Sections 147 (rioting), 323/149 (causing hurt in furtherance of common intention), and 427 (mischief causing damage) of the Indian Penal Code. The court held that the prosecution successfully proved the involvement of the appellants in the incident, where they assaulted the complainant and damaged his property.

20. Considering the circumstances, including the nature of the dispute, the age of the appellants, and the fact that the conflict arose suddenly between neighbors, the trial court exercised its discretion under Section 4 of the Probation of Offenders Act, 1958. The appellants were directed to maintain peace and good behavior for a period of one year and furnish a personal bond of ₹10,000/- with two sureties of the same amount. The court rightly provided the appellants with the benefit of probation, as there was no prior criminal record against them.

21. This Court finds that the trial court's judgment is based on a careful appreciation of the evidence and proper application of legal principles. The findings are neither perverse nor erroneous. The appellants were given a fair opportunity to present their case, and the trial court's conclusions are in line with the evidence on record. No procedural irregularities or legal infirmities are found in the judgment of the trial court.

22. In light of the above, this Court sees no reason to interfere with the well-reasoned judgment and order passed by the trial court. The appeal lacks

merit and is accordingly dismissed. The appellants shall remain bound by the conditions imposed by the trial court under Section 4 of the Probation of Offenders Act, 1958, for the duration of the probation period.

23. The criminal appeal is **dismissed**.

24. The judgment and order of the trial court dated [10.10.2006], convicting the appellants under Sections 147, 323/149, and 427 I.P.C. and placing them on probation under Section 4 of the Probation of Offenders Act, 1958, is **upheld**.

Order Date :- 19.9.2024

Arvind

(Justice Shamim Ahmed)