

Court No. - 16

Case :- CRIMINAL APPEAL No. - 2174 of 2006

Appellant :- Mansa Ram Shukla

Respondent :- State Of U.P.Through District Magistrate Bahraich.

Counsel for Appellant :- Brij Raj Tripathi,Utkarsh Kumar

Counsel for Respondent :- Govt.Advocate,Arun Kumar

Hon'ble Shamim Ahmed,J.

1. List is being revised.
2. This Criminal Appeal under Section 374 of the Code of Criminal Procedure (Cr. P.C.) has been filed against the judgment and order dated 26.09.2006 passed by the Learned Additional Sessions Judge (Fast Track Court), Bahraich in Sessions Trial No. 527 of 2005:State Vs. Mansaram, Police Station Biseshwarganj arising out of Case Crime No. 282 of 2005 under Sections 307/324 of the Indian Penal Code (I.P.C.).
3. Heard Sri Utkarsh Kumar, learned counsel for the appellant and Sri Ashok Kumar Singh, learned A.G.A.-1 for the State and perused the record.
4. Learned Counsel of the appellant submitted that The prosecution's case is fundamentally flawed due to the inconsistencies in the nature of injuries as reported in the impugned First Information Report (FIR). The FIR claims that the victim sustained two types of injuries—some caused by a blunt object and others by sharp-edged weapons. However, there is no allegation that multiple assailants were involved, nor is there any clear evidence that different types of weapons were used. This contradiction severely undermines the prosecution's narrative and casts doubt on the authenticity of the entire case.

5. Learned Counsel of the appellant further submitted that the injured party, Nankoo, did not lodge the FIR, which was instead filed by Prosecution Witness-1 (PW-1), who has no direct concern with the incident. This raises significant questions about the credibility and motivation behind the filing of the FIR. The absence of a direct complaint by the injured party itself creates a strong presumption of the prosecution story being fabricated or at least exaggerated.

6. Learned Counsel of the appellant further submitted that it is pertinent to note that the injured party, Nankoo, did not support the prosecution's theory during the trial. This non-support by the injured party further weakens the prosecution's case, rendering the conviction illegal and unsustainable. A conviction in the absence of corroborative testimony from the injured party should not stand the scrutiny of law.

7. Learned Counsel of the appellant further submitted that Prosecution Witness-2 (PW-2) and Prosecution Witness-3 (PW-3) also failed to corroborate the prosecution story. The conviction, therefore, is based on weak and uncorroborated evidence, which is insufficient to meet the standard of proof required in criminal cases. The Hon'ble Court should consider setting aside the conviction on these grounds.

8. Learned Counsel of the appellant further submitted that the parties involved had come to an amicable settlement and filed a compromise in the case. It is submitted that the learned Sessions Judge, Bahraich, erred in not accepting this compromise. Given the willingness of both parties to resolve the matter amicably, the rejection of the compromise was without sufficient cause and not in the interest of justice.

9. Learned Counsel of the appellant further submitted that the evidence provided by Prosecution Witness-1 (PW-1) is based on

hearsay, and Prosecution Witness-4 (PW-4) was not an eyewitness to the incident. A conviction passed on such unreliable evidence is not justifiable. The learned Sessions Judge, therefore, committed a serious error in basing the conviction on this weak and unsubstantiated testimony.

10. Learned counsel of the appellant further submitted that the conviction and sentence passed by the lower court are perverse and do not stand up to legal scrutiny. The evidence presented was not properly appreciated by the learned Sessions Judge, leading to a conclusion that is contrary to the facts and circumstances of the case. This Hon'ble Court is requested to set aside the conviction as it is based on perverse findings.

11. Learned Counsel of the appellant further submitted that the offence under Section 324 of the Indian Penal Code is compoundable with the permission of the Court. The learned Sessions Judge ought to have accorded permission for the compromise that was reached between the parties. The refusal to accept the compromise and the subsequent conviction of the accused under Section 324 I.P.C. is not sustainable in law.

12. Learned AGA submitted that the prosecution's case is consistent and credible, as evidenced by the medical reports and testimonies of the witnesses. The nature of the injuries, whether caused by blunt or sharp objects, does not undermine the overall reliability of the prosecution's case. The focus should be on the fact that the injuries were inflicted, corroborating the intent to cause harm, which is the essence of the charges under Sections 324 I.P.C.

13. Learned AGA further submitted further that the fact that Prosecution Witness-1 (PW-1) filed the FIR instead of the injured party, Nankoo, does not diminish the validity of the complaint. The

law permits any person with knowledge of the offense to lodge an FIR. PW-1 acted in accordance with the law and reported the incident immediately, which aligns with the timely filing of the FIR, a key factor in assessing the authenticity of the case.

14. Learned AGA further submitted further that the conviction of the accused under Section 324 I.P.C. is valid and sustainable under the law.

15. After considering the arguments advanced by learned counsel for the parties, and upon careful examination of the facts, evidence, and the trial court's findings, this Court concludes that the trial court rightly convicted the appellant under Section 324 IPC. The trial court's assessment that the injuries were simple and not inflicted with the intent to kill is supported by the testimony of the injured party and other evidence on record.

16. Given the circumstances, particularly the nature of the injuries and the involvement of family members, the trial court's decision to treat the time already served by the appellant in custody as sufficient punishment is appropriate. The trial court has exercised its discretion judiciously.

17. Therefore, this Court finds no reason to interfere with the trial court's judgment. The impugned judgment and order dated 26.09.2006 is liable to be upheld and it is hereby affirmed. This appeal lacks merit and is liable to be dismissed.

18. Accordingly, **dismissed**.

19. Let a copy of this judgment be sent to the trial court.

Order Date :- 12.8.2024

Arvind

(Shamim Ahmed, J.)