

Court No. - 75

Case :- CRIMINAL APPEAL No. - 2594 of 1983

Appellant :- Ramvir Singh

Respondent :- A.G.A.

Counsel for Appellant :- J.N.Chaturvedi,Vivek Kumar Mishra

Counsel for Respondent :- A.G.A.

Hon'ble Vikas Budhwar,J.

1. Heard Shri Anurag Patel, holding brief of Shri Vivek Mishra, learned counsel for the appellant and Shri Vikas Sharma, learned State Law Officer for the State.
2. Challenge in this appeal to the judgment and order dated 24.10.1983 passed by the Additional Sessions Judge, Rampur in Sessions Trial No. 29 of 1983 convicting and sentencing the appellant to four years rigorous imprisonment under Section 307 IPC.
3. The prosecution theory in brief is that Subedar Singh (since deceased) resident of village – Tirya, Saleypur, Police Station Patwai, District-Rampur and on 15.04.1979 at 4:00 PM was going to his agricultural field for taking Barseen. His nephew, Vijay Pal Singh, PW1 had gone to the jungle in the morning for grazing the cattle, however, one cow of Vijay Pal Singh, PW1 had strayed into the field of the appellant- Ramveer Singh. PW1- Vijay Pal Singh went to take out cow from the field of appellant- Ramveer Singh then Vijay Pal Singh PW1 and Jagdish along with other companion, Raghunath Singh (since deceased) approached there and appellant- Ramveer Singh had Ballam while accused- Jagdish and Raghunath Singh *lathees*. Appellant- Ramveer Singh assaulted Vijay Pal Singh with Ballam which struck in his left abdomen and the accused- Jagdish and Raghunath Singh also used *lathees* which slightly hit the

PW1- Vijay Pal Singh, he raised alarm while making hue and cry then Subedar Singh, PW2- Sohan Lal and Manvir Singh- PW3 came there and challenged the appellant and two accused. The accused thereafter ran away in the jungle. The injured, Vijay Pal Singh, PW1 was brought to the police station by Subedar Singh (deceased) and a first information report was lodged on the same day in the police station at 5:45 PM which was originally registered under Sections 323, 324 IPC, however, post completion of investigation, police submitted charge-sheet under Sections 323/ 324 IPC. The trial of the case commenced before the Munsif Magistrate, Rampur. During the trial, the learned Magistrate, vide order dated 31.01.1983, came to the conclusion that the case against accused/ appellant fell within the ambit of Sections 307 read with Section 34 IPC and, therefore, the case was committed against the appellant and the other accused under Section 307 read with Section 34 of the IPC. The charges were read, the accused /appellant denied the charges and during the trial, the accused- Raghu Nath Singh died and the case was abated vide order dated 01.06.1983. The statements of the accused- Ramveer Singh (appellant) and Jagdish were recorded under Section 313 Cr.P.C., they denied the prosecution allegations while alleging that the charges were false.

4. Prosecution in support of his case had examined three witnesses, namely, Vijay Pal (PW1), Sohan Lal (PW2), Manvir Singh (PW3). The doctor found the following injuries on his person:

- 1. Punctured wound 1.5 cm x 0.5 cm cannot be probed on the left side of Abdomen 13 cm away from umbilicus.*
- 2. Punctured wound 0.5 cm x 0.25 cm cannot be probed on the lower part of left side of back 4 cm away from mid-line of back.*
- 3. Punctured wound 0.25 cm x 0.25 cm cannot be probed on lower part of left side of back 1.5 cm below the injury no. 2.*

5. These injuries were kept under observation and X-Ray was advised. Post completion of the trial, the appellant herein has been convicted under Section 307 IPC and sentenced to four years rigorous imprisonment by virtue of the judgment and order dated 24.10.1983 by the Additional Sessions Judge, Rampur in Sessions Trial No. 29 of 1983.

6. Learned counsel for the appellant while assailing the judgment and order under-challenge has sought to argue that the appellant is innocent and he has not committed the said offence and he was not present on the spot when the incident took place on 15.04.1979. According to the learned counsel for the appellant, there was no real/ actual motive for commission of the offence, merely because, a cattle entered into the agricultural field of the appellant would not in any manner whatsoever cause such a temperament so as to commit the offences under Section 307 of the IPC. Argument is that the appellant is innocent, he has been falsely implicated and further the statements of PW1, Vijay Pal injured, Sohan Lal- PW2, Manvir Singh- PW3 are not reliable as they are interested witnesses.

7. In nutshell, the submission is that for committing such an offence, there has to be some motive behind it and the motive which is being sought to be attributed in the first information report is thoroughly insufficient and implorable. Learned counsel for the appellant submits that the incident of commission of the offence is dated 15.04.1979 and when the appellant is being heard in the year 2025 more than 46 years have been passed and the appellant does not possess any criminal history and looking into the age of the appellant, the Court may in exercise of appellate powers alter and modify the conviction under Section 307 IPC to 324 IPC and the sentence of rigorous imprisonment four years be converted fine.

8. Learned State Law Officer on the merits has submitted that the first information report lodged by Subedar Singh pinpointedly alleges criminality upon the appellant and further he was holding Ballam in his hand and the nature of the injuries itself show that the said injuries could

be sustained by the weapon which was possessed by the appellant. According to him, the injuries are on the vital parts and even the appellant has not disputed the medical reports, his presence is apparent on the spot. However, he submits that the incident took place on 15.04.1979 and more than 46 years have been passed and the fact that he does not possess any criminal history to his credit, the conviction and the sentence under Section 307 IPC while ordering rigorous imprisonment of four years be altered to conviction under Section 324 IPC which fine.

9. I have heard the learned counsel for the parties and perused the record carefully.

10. The first information report alleges that the appellant herein on 15.04.1979 along with other co-accused had committed the offences such as the appellant with the help of Ballam and the accused Jagdish and Raghu Nath Singh with the aid of *Lattees* had extended injuries to the Vijay Pal Singh, PW1. Allegation is that with the aid of Ballam which the appellant is alleged to have been holding injuries were extended to Vijay Pal Singh, PW1 in his left abdomen. The injury report shows fractured wound on the left side of abdomen, front line fractured wound on midline of the back and fractured wound in the lower part of the back. The statements of PW1-Vijay Pal Singh, PW2-Sohan Lal and PW3-Manvir Singh support the prosecution theory. Even the medical report also supports the prosecution theory.

11. It is also the case of the appellant that merely because one of the cow had entered into the agricultural field of the appellant, would not be a motive to inflict criminality in such a manner so as to attract the provisions of Section 307 IPC.

12. Looking into the facts and circumstances of the case, bearing in mind that the incident took place on 15.04.1979 and more than 46 years have passed and the applicant has no criminal history thus in order to serve the justice, the present case necessitates modification and alteration of the

conviction and sentence from Section 307 IPC to Section 324 IPC while imposition of fine in place of four years of rigorous imprisonment.

13. Accordingly, the appeal is **allowed in part**. The conviction of the appellant, Ramveer Singh under Section 307 IPC is altered and modified into the offences under Section 324 IPC and the sentence of imprisonment for the aforesaid offences is awarded to the appellant to the period already undergone imposing fine of Rs. 10,000/- for the offence under Section 324 IPC. The fine amount imposed upon the accused-appellant for the aforesaid offence shall be deposited by the appellant within three months from today. In case of default in payment of fine amount within the aforesaid period, the appellant shall serve out the entire sentence awarded to him by the trial court vide impugned judgment and order.

14. Let a copy of the judgment along with trial court record be sent to the Sessions Court, Rampur for compliance.

15. A compliance report be sent to this Court.

16. A copy of the order be provided to the counsel for the appellant as well as learned AGA as per rule.

Order Date :- 22.07.2025

A. Prajapati