



2025:AHC:157968

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2928 of 1984

Ajai Pal @ Putaiyan

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: Arun Kumar Tiwari, Om Prakash Singh
Counsel for Respondent(s)	: A.G.A.

Court No. - 84

HON'BLE SUBHASH CHANDRA SHARMA, J.

1. Heard learned counsel for the appellant and learned A.G.A. for the State.
2. Present criminal appeal has been filed against the judgment and order passed by the VIth Additional Sessions Judge (M), Kanpur dated 01.10.1984 in Session Trial No. 282 of 1984 (State Versus Ajai Pal @ Putaiyan) arising out of Crime No. 212 of 1984 by which learned trial court has convicted the appellant under Section 324 I.P.C. and released him on probation for good behavior for a period of one year.
3. Facts in brief are that Smt. Ram Dulari was married to one Chhutawane younger brother of accused Ajai Pal @ Putaiyan. Smt. Ram Dulari was living apart from her husband and went back to stay at the house of her parents. The accused/appellant approached there and took her on the assurance to keep her peacefully, but in Sasural, he tried to molest her, as a result, she jumped into the well and was taken out of the well with the help of the villagers and again she went to her Maika. The accused/appellant later on made a fire with country made pistol, but the shot missed. He again made fire on her causing injuries on left side of her chest regarding which an FIR was lodged at the police station concerned. The injured was medically examined on the same day on 26.05.1984 in which gun shot injury was found on her person.
4. After investigation, charge sheet was filed by the Investigating Officer and cognizance was also taken by the learned trial court. After compliance of Section 207 Cr. P.C., case was committed to the court of sessions for trial.

The learned trial court framed the charge against the appellant under Section 307 I.P.C. which was read over and explained to him, but he denied and claimed for trial.

5. The prosecution examined PW-1 Saddam, PW-2 Smt. Ram Dulari, PW-3 Ram Karan, PW-4 Sub-Inspector Km. Mamta Vidyarthi and PW-5 Dr. Vinod Chandra Rastogi.

6. PW-2 Smt. Ram Dulari narrated the prosecution version and she proved the contents of the FIR, likewise other witness PW-3 Ram Karan also supported the prosecution version. PW-4 Sub-Inspector Km. Mamta Vidyarthi has proved the investigation and PW-5 Dr. Vinod Chandra Rastogi has also proved the medical report and injury found on the person of the injured.

7. After prosecution evidence, statement of appellant under Section 313 Cr. P.C. was recorded in which he denied the allegations and stated about the testimony of the witnesses to be false. No evidence was adduced in defense.

8. After perusing the record and argument raised by the defence as well as the prosecution, learned trial court held guilty to the appellant under Section 324 I.P.C. and released the appellant for maintaining peace and good behavior for a period of one year in place of sentence as offence being first.

9. Learned counsel for the appellant argued that in this case the whole prosecution version is false and there is no evidence on record to prove the offence said to be committed by the appellant even though learned trial court has convicted him on hypothetical ground. He also argued that the appellant is 60% handicapped and now he is aged about 67 years, therefore, it cannot be said that he had committed the crime as alleged being 60% handicapped and till now he has passed the period of 41 years from the date of judgment and order i.e. 01.10.1984 by which he was directed to keep peace and good behaviour for a period of one year. There is no any recurrence of any such incident or any complaint in this regard, therefore, request to set aside the order dated 01.10.1984 and acquit the appellant.

10. Learned A.G.A. opposed the prayer as aforesaid and contended that in this case the first information report was lodged promptly and the

prosecution case was proved by the witnesses beyond reasonable doubt. The injured also supported the prosecution version and the other witnesses also supported her statement regarding incident. Dr. Vinod Chandra Rastogi has also proved the injuries on the person of the injured, who was examined as PW-5. Gun shot injury was found on her person and it was opined to have been caused on the date of incident i.e. 26.05.1984. In this way, the case was proved beyond reasonable doubt and the learned trial court has convicted the appellant on the basis of material available on record. There is no any error of fact and law in the order passed by the learned trial court, but this appeal being devoid of merit is liable to be dismissed.

11. In the present case, the incident is said to have taken place on 26.05.1984 at about 10 A.M. in which the appellant is said to have caused injury on the person of the injured with firearm regarding which an F.I.R. was lodged on the same day on the basis of Tahrir Ext. Ka 1 given by Smt. Ram Dulari after getting it scribed by Asrem Kumar @ Anil Kumar. She proved the Tahrir during the course of her examination. The chik F.I.R. was prepared on the same day at about 10.45 A.M. which shows that the F.I.R. was prompt. Its entry in G.D. was also made by the constable at the police station and the copy of the G.D. has also been proved.

12. The injuries on the person of the injured Smt. Ram Dulari were examined on the same day at about 11.45 A.M. by PW-5 Dr. Vinod Chandra Rastogi.

13. P.W.-2 Smt. Ram Dulari herself is injured, who has stated clearly before the learned trial court that injury was caused to her with firearm by the appellant and the incident was seen by PW-1 Saddam. PW-1 Saddam was also examined before the learned trial court, who has supported the version of PW-2 Smt. Ram Dulari. During the course of cross-examination of PW-1 Saddam and PW-2 Smt. Ram Dulari, there is no any material contradiction affecting the reliability of their testimony. PW-3 Ram Karan, who has also supported the statements of PW-1 Saddam and PW-2 Smt. Ram Dulari and he clearly stated that the appellant-Ajai Pal @ Putaiyan made fire on PW-2 Smt. Ram Dulari with Tamancha causing injury to her. PW-5 Dr. Vinod Chandra Rastogi, who examined the injured, has also stated that the injuries were found to be caused with firearm on 26.05.1984 at about 10 O'clock. The injury report was prepared by him in his hand writing and signature. It

was also proved as Ext. K-8. In this way the testimony of PW-5 Dr. Vinod Chandra Rastogi also corroborates the statement of injured PW-2 Smt. Ram Dulari. PW-4 Sub-Inspector Km. Mamta Vidyarthi has also proved the investigation and Fard recovery of empty cartridges from the place of occurrence and also the site plan and charge sheet. She also proved the fard recovery of Tamancha and two empty cartridges of 315 Bore as Ext. Ka-4.

14. From the testimony of PW-1 Saddan, PW-2 Smt. Ram Dulari and PW-3 Ram Karan along with testimony of PW-5 Dr. Vinod Chandra Rastogi, the prosecution version stands proved beyond reasonable doubt. The learned trial court has recorded the conviction of the appellant under Section 324 I.P.C. There appears no any error of fact or law in appreciating the evidence on record by the learned trial court. So far as sentence is concerned, learned trial court has already without awarding the sentence, released the appellant on probation for a period of one year for keeping peace and good behaviour while granting relaxation in sentence, therefore, it does not require any interference by this Court, but this appeal being devoid of merit, is liable to be dismissed.

15. Consequently, the present criminal appeal is hereby ***dismissed***. Trial Court record be sent back to the learned trial court.

September 8, 2025
T.S.

(Subhash Chandra Sharma,J.)