



2026:AHC:203729

[Reserved On: 29.05.2026]
[Delivered on :29.9.2026]

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 54 of 1987

Vijai Pal And Others

.....Appellant(s)

Versus

State

.....Respondent(s)

Counsel for Appellant(s)	: Pushpendra Singh Jadon, Ram Janam Shahi, S.K.Yadav
Counsel for Respondent(s)	: A.G.A.

Court No. - 54

HON'BLE ANIL KUMAR-X, J.

1. When the case was called out in the revised call, Ms. Babita Upadhyay, learned Amicus Curiae, was not present.
2. Heard Sri Ram Janam Shahi, learned counsel for appellant nos. 1, 6, 10 and 13, and Sri Acharya Rajesh Tripathi, learned AGA for the State-respondent.
3. The appeal against appellant nos. 2, 3, 4, 5, 7, 8, 9, 11 and 12 has already stood abated.
4. This criminal appeal has been preferred against the judgment and order dated 20.12.1986 passed by Shri V.D. Dubey, learned Special Judge (Economic Offences), Agra, in Sessions Trial No. 444 of 1984 (State Vs. Karan Singh and others), whereby the appellants have been convicted under Sections 324/149, 147 and 148 IPC and have been granted the benefit of probation for a period of one year for maintaining good behaviour and peace, subject to furnishing two sureties of Rs.2,000/- each and a personal bond in the like amount. The appellants have further been sentenced to pay a fine of Rs.50/- each, with a default sentence of three months' rigorous imprisonment.
5. An FIR in Crime No. 184-A under Sections 147, 148, 149 and 307 IPC was registered at Police Station Malpura, District Agra, by Jaswant Singh, son of Raghuveer Singh, resident of Village Ladamada, Police Station Malpura, District Agra, against thirteen accused persons. It was alleged that

all the accused persons, armed with lathis, sticks, revolvers and country-made pistols, arrived at his house and exhorted others to kill him. Immediately thereafter, they started assaulting and firing. In the said incident, three persons, namely, Bhuri Singh, Hari Chandra and Mahendra Singh, sustained firearm injuries, while others also received injuries after being assaulted with lathis.

6. The said FIR was lodged on 06.10.1983, wherein it was stated that the alleged incident had occurred at about 6:30 a.m. on the said date. The investigation of the case was entrusted to Sub-Inspector Gyan Singh, who submitted a charge-sheet against all thirteen accused persons. Charges were framed against them on the basis of the said charge-sheet under the same sections as those mentioned in the FIR.

7. The prosecution examined the informant, Jaswant Singh (PW-1), who was also an eyewitness; Hari Chandra as PW-2; Bhuri Singh as PW-3; and Mahendra Singh as PW-5. Dr. S.P. Mishra, who had prepared the injury reports of all three injured persons, was examined as PW-4.

8. The learned trial court, after considering the testimony of the witnesses and the evidence led before it, came to the conclusion that the intention of the accused persons was to assault Sughad Singh, the then Pradhan of the village, and that they had not assembled with the intention of causing hurt to the other persons. Therefore, it could not be held that the injuries sustained by the three injured persons as a result of the firing by the accused persons were caused with the intention of killing them.

9. The learned trial court further observed that none of the injured persons who had sustained firearm injuries had suffered any grievous injury. On this basis, the learned trial court acquitted all the accused persons of the offence under Section 307 IPC, but found that the offence committed by them fell within the ambit of Section 324 IPC. Additionally, all the accused persons were convicted under Sections 147 and 148 IPC. Accordingly, the learned trial court extended the benefit of the Probation of Offenders Act to all thirteen accused persons in respect of their conviction under Section 324 read with Section 149 IPC. Apart from this, a fine of Rs.50/- each was imposed upon all thirteen accused persons for the offences under Sections 147 and 148 IPC.

10. Learned counsel for the appellants submitted that evidence led before the learned trial court does not establish that any of the accused persons had caused any injury to the injured persons either with the intention of causing such injuries or of committing their murder. It was submitted that the learned trial court had failed to properly appreciate the prosecution evidence in the

light of the injuries sustained by the accused persons during the incident.

11. It was further contended that the accused persons had also set up their defence by producing their injury reports, which were duly proved by Dr. S.P. Mishra, PW-4. It was specifically stated by the accused persons before the learned trial court that the informant and the other injured witnesses, armed with lathis, guns and revolvers, had arrived at the house of accused Karan Singh and had inflicted injuries upon him as well as upon two other accused persons, namely, Ravindra Singh and Jawahar Singh. However, the said assertion of the accused persons, which found corroboration from the injury reports duly proved by PW-4, Dr. S.P. Mishra, was wrongly discarded by the learned trial court. Hence, the finding recorded by the learned trial court convicting the appellants for the offences under Sections 324/149, 147 and 148 IPC is unsustainable and is liable to be set aside.

12. Per contra, Sri Acharya Rajesh Tripathi, learned AGA for the State, submitted that the prosecution had proved its case beyond reasonable doubt. The facts and evidence on record clearly establish that the First Information Report was lodged promptly and, therefore, there was no possibility of concoction or exaggeration in the prosecution version. All three injured witnesses were also produced before the doctor on the same date, and the doctor found firearm injuries upon the persons of all three injured witnesses.

13. All the witnesses were examined before the learned trial court and were cross-examined at length. They consistently supported the prosecution version, which was further corroborated by the injury reports. The nature of the injuries sustained by the injured persons and the weapons used to inflict such injuries were sufficient to establish the allegations against the accused persons. Hence, the finding recorded by the learned trial court, based upon the evidence available on record, does not warrant any interference by this Court.

14. Heard learned counsel for the parties and perused the material available on record.

15. It is evident that the FIR was lodged promptly and that the injured persons were medically examined on the same date. The injured persons were immediately produced before Dr. S.P. Mishra for medical examination. All the prosecution witnesses have supported the prosecution version. Nothing could be elicited from their testimony which could create any doubt regarding their credibility or the authenticity of their version.

16. It is relevant to note that all three injured persons had sustained firearm injuries. They have unequivocally stated that the accused persons, armed

with rifles, revolvers, country-made pistols and sticks, had arrived at their house with the intention of killing them. They further stated that at least five or six rounds were fired during the incident.

17. The injury reports of all the injured persons have also been perused by this Court. They indicate that injured PW-3-Bhuri Singh, PW-3, sustained two firearm injuries, one on the back of his left forearm and the other on the front of his right leg. Similarly, injured Hari Chandra sustained two firearm injuries, one on the inner aspect of his right arm and the other on the skin over his right knee. Injured Mahendra Singh sustained as many as five firearm injuries. These injuries were found on the skin of the left side of his face, the front and back of the left side of his chest, the front of his left arm and the back of his left forearm.

18. No cause or reason has been shown by the defence to disbelieve or otherwise explain away the firearm injuries sustained by the injured persons. Therefore, this Court finds no inconsistency or infirmity in the finding recorded by the learned trial court.

19. Injuries received by appellants were also considered by Learned Trial Court. It observed that appellant Karan sustained abrasion on his back. Appellant Ravindra had pellet injury on his back. Injury report of appellant Jawahar was not proved. It was held by trial court that said injuries are minor and minimal compared to that received by the prosecution witness. The said findings in respect of injuries sustained by appellants are consistent with the finding regarding nature of injuries received by injured witnesses. It is evident that Trial Court has adopted similar parameters for appreciating the injuries if both sides. Hence, same does not warrant interference.

20. In view of the foregoing discussion and upon careful consideration of the evidence available on record, this Court finds no illegality, infirmity or perversity in the judgment and order dated 20.12.1986 passed by the learned trial court. The findings recorded by the learned trial court are based on proper appreciation of the oral and documentary evidence on record and do not call for any interference by this Court.

21. Before parting with this judgment, this Court feels restrained to observe that, conclusions drawn by Trial Court after examination of prosecution witness to convert the offence under Section 307 I.P.C. to Section 324 I.P.C., is unsustainable. The injured witnesses have sustained pellet injuries. Number of pellet injuries sustained by them, manner of occurrence, weapons used, if considered together leaves no room of doubt that act committed by appellant definitely falls within the purview of Section 307 I.P.C. Considering that appeal is against conviction, this Court, except either

affirming or reversing the judgment has no further jurisdiction to enhance the sentence.

22. Accordingly, the present criminal appeal is hereby **dismissed**. The judgment and order dated 20.12.1986 passed by the learned Special Judge (Economic Offences), Agra, in Sessions Trial No.444 of 1984 (State Vs. Karan Singh and others), insofar as it relates to the present appellants, is hereby **affirmed**.

23. The appellants shall abide by the terms and conditions of the probation granted by the learned trial court. The fine, if already deposited, shall be dealt with in accordance with law.

24. Let the lower court record, if any, be transmitted back to the court concerned forthwith along with a copy of this judgment for information and necessary compliance.

September 29, 2026
Mukesh

(Anil Kumar-X,J.)