



2026:AHJ:87119

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 3038 of 2002

Chatur Bhuj And Others

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	S.K. Chaturvedi,	Shashwat	Kishore
		Chaturvedi		
Counsel for Respondent(s)	:	Govt. Advocate		

Court No. - 93

HON'BLE MRS. VANI RANJAN AGRAWAL, J.

1. The instant appeal has been preferred against the Judgment and Order dated 20.7.2002 passed by learned Additional Session Judge, Court No.8, Mathura in Sessions Trial No.52 of 2001, under Sections 308, 323 of the Indian Penal Code, Police Station Govardhan, District Mathura, whereby the appellants have been convicted and sentenced as under:-

i) Under Section 323 I.P.C. - Rigorous Imprisonment for a period of six months to appellants.

2. Heard Sri S.K. Chaturvedi, learned counsel for the appellant and Sri Rahul Asthana, learned A.G.A. appearing for the State.

3. Office vide it's report dated 27.7.2022 has reported that a report has been received from learned Chief Judicial Magistrate, Mathura dated 6.9.2021 (flag 'A') wherein it has been stated that accused appellant no.1 Chaturbhuj has died on 10.6.2021 at S.N. Medical College, Agra.

4. In view of the above report, this appeal is disposed of as abated qua the appellant no.1 Chaturbhuj. Now this appeal is **surviving only with respect to appellant nos.2 and 3 namely Radha Charan and Prahlad respectively.**

5. The prosecution case as per First Information Report is that :-

On 8.3.1999 when the complainant Ram Gopal S/o Pooran Singh Jatav R/o Village

Bheemnagar, Police Station Govardhan, District Mathura, after taking payment from the shop was going to his home for taking meal, when he reached in front of the house of accused Chaturbhuj, Radhacharan S/o Deviram, Prahlad S/o Radhacharan, Veer Bahadur S/o Chaturbhuj, then these persons surrounded the complainant, threw him on the ground and started beating him with sticks. On raising alarm by the complainant when his mother namely Smt. Chandravati and wife Smt. Singari Devi came to save him then they were also beaten by the accused persons by sticks. Thereafter, many villagers arrived on spot and saved the complainant and witnessed the incident. In the incident complainant and his family members suffered many injuries on their persons. A written report Exhibit Ka-12 regarding the incident was given by the complainant on the same day i.e. on 8.3.1999 at 2:30 P.M. at Police Station Goverdhan under Section 323 I.P.C. a Non Cognizable Report No.25 was registered. The matter was investigated by Assistant Sub-Inspector Sri Jagdish Singh.

The complainant and his wife Smt. Singari Devi and his mother Smt. Chandravati were medically examined on 8.3.1999 at District Hospital, Mathura. The Doctor found following injuries on their person:-

The complainant Ramgopal suffered following injuries:-

- (i). Lacerated wound 1x0.5 cm. scalp deep on the right forehead 5.5 cm. above right eyebrow. X-ray was advised.
- (ii). Lacerated wound on the left side head 2 x 0.5 cm. scalp deep 7 cm. above the ear.
- (iii). Lacerated wound 1.5 x 0.5 cm. scalp deep on the left side of head just above the injury no.2 inside. X-ray was advised.
- (iv). Lacerated wound 1x0.5 cm. scalp deep on the left side head 8 cms. Above the ear. X-ray was advised.
- (v). One blue mark 5x2 cm on the middle part of left upper arm.
- (vi). One blue mark 8x2 cm on the left elbow and outside the front arm.
- (vii). One blue mark 9x2 cm on the lower part of right arm.

(viii). On the back and lower back eight blue marks which were 11x2 cms and 4x2 cms in size. X-ray was advised.

(ix). Blue mark 10x2 on the front side of left thigh.

Injuries suffered by Smt. Singari Devi

(i). One lacerated wound 2x0.5 cm scalp deep on the left side of parietal part 10 cms. above the ear.

(ii). One blue mark 7x3 cms. on the upper part of right shoulder.

(iii). Complain of pain in the chest. No mark of injury was found.

Injuries suffered by Smt. Chandravati

(i). Lacerated wound 1.5x5 deep upto forehead on the right upper lips red in colour, blood clotting were present. On cleaning blood oozing.

(ii). One blue mark 6x2 cms. in front of the left upper arm and on the middle part.

(iii). One bluish swelling 2.5x2 cms on the right side of head 4 cms. above the ear.

6. The Investigating Officer after inspecting the site has prepared the site plan Exhibit Ka-9. The statements of witnesses was recorded under Section 161 Cr.P.C. and after investigation the charge sheet Exhibit Ka-10 and Ka-11 under Sections 323 and 308 I.P.C. against the accused Chaturbhuj, Radhacharan and Prahlad was submitted before the Court. The Investigating Officer alongwith charge sheet has presented Medical Report Exhibit-Ka-2 and Ka-5, Carbon copy of N.C.R. Exhibit Ka-6, chick report (Nakal rapat) Exhibit Ka-7 and Ka-8 and written report given by the complainant Exhibit Ka-12.

7. The prosecution in support of it's case has examined the following witnesses:-

P.W.-1 Ram Gopal; P.W.-2 Dr. Amarnath Goyal; P.W.-3 Smt. Singari Devi; P.W.-4 Smt. Chandravati; P.W.-5 Dr. C.C. Sharma; P.W.-6 Head Constable Ram Veer Singh; P.W.-7 Head Constable Jagdish Singh.

8. After closing the evidence, the statements of the accused was recorded under Section 313 Cr.P.C., wherein they denied the prosecution story and stated that they have been falsely implicated due to enmity. The accused in defence have produced D.W.-1 Mukesh Kumar Gupta and D.W.-2 Radha Charan.

9. Learned counsel for the appellants has stated at the bar that the appellants were in custody for some period. Learned counsel has further submitted that he has to say nothing on merits of the case and he simply prays that the custodial punishment awarded to the appellants be reduced to the period already undergone in jail and some fine may be imposed. He points out that the incident had taken place in the year of 1999.

10. So far as, sentence is concerned it has been held :-

(i) In **Uthem Rajanna vs. State of A. P.** reported in **2005 (11) Supreme Court Cases 531**; accused was convicted and sentenced for six months under Section 304-A IPC alongwith fine, three months under Section 338 IPC. In appeal Hon'ble the Apex Court has reduced the sentence period already undergone.

(ii) In **Neelam Bahal and another vs. State of Uttarakhand** reported in **(2010) 2 Supreme Court Cases 229**; accused was convicted and sentenced under Section 307 IPC and sentenced him to undergo seven years' rigorous imprisonment. Hon'ble the Apex Court has convicted accused under Section 326 IPC and reduced the sentence to period already undergone i.e. almost one year on the ground that the incident happened in the year 1987 when the accused was of young age of 25 years.

11. After perusing the judgment impugned and considering the above mentioned judgments rendered by the Hon'ble Apex Court and taking into account the old and ailing age of the appellants and reformatory theory of punishment, I am of the view that the ends of justice will be met if the custodial punishment awarded to the appellants is reduced to the period already undergone by them in jail with reasonable amount of fine is imposed upon them.

12. In the circumstances mentioned above, modifying the period of custodial sentence, it is directed that the appellant is sentenced to undergo imprisonment already

undergone by them in jail. Beside, they are sentenced to pay fine of Rs.1,000/- each under the aforesaid Section, which shall be deposited to the injured/family members of injured. The appellants are directed to deposit the entire amount of fine within a period of three months from today before the Court concerned. In case of default in payment of fine as directed above the appellants shall undergo the sentence as awarded by the learned trial Court.

13. Thus, the appeal is partly allowed with modification on the point of sentence only as mentioned above. Conviction is maintained.

14. Let a copy of the judgment be sent to the concerned learned Sessions Judge for its onward transmission to the court concerned for information and further action in the matter.

April 10, 2026
Dev

(Mrs. Vani Ranjan Agrawal,J.)