



2026:AHC:109755

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 9487 of 2023

Rameshwar Singh And 4 Others

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	Mayank Gaurav, Prashant Kumar
Counsel for Respondent(s)	:	G.A.

Court No. - 93

HON'BLE MRS. VANI RANJAN AGRAWAL, J.

1. Heard Sri Prashant Kumar, learned counsel for appellants and Sri Rahul Asthana, learned A.G.A. of the State.

2. The present Criminal Appeal has been preferred against the judgment and order dated 28.08.2023 passed by learned Special judge SC/ST Act, 1989 in Special Sessions Trial No.146 of 2014 (State vs. Rameshwar Singh and others), under Sections 147, 148, 323, 325 and 452 I.P.C. arising out of Case Crime No.02 of 2014, P.S. Raipura District- Chitrakoot whereby the appellants have been convicted and sentenced as follows :-

(i). Under Section 147 I.P.C. - One year rigorous imprisonment with fine of Rs.1,000/- in default of payment of fine one month additional rigorous imprisonment.

(ii). Under Section 148 I.P.C. - One year rigorous imprisonment with fine of Rs.1,000/- in default of payment of fine one month additional rigorous imprisonment.

(iii). Under Section 323 I.P.C. - Six months rigorous imprisonment with fine of Rs.1,000/- in default of payment of fine additional rigorous imprisonment for seven days.

(iv). Under Section 325 I.P.C. - Three years rigorous imprisonment with fine of Rs.5,000/- in default of payment of fine additional rigorous

imprisonment of three months.

(v). Under Section 452 I.P.C. - Three years rigorous imprisonment with fine of Rs.2,000/- in default of payment of fine additional rigorous imprisonment of three months.

3. The Prosecution Case (brief narrative) -

The complainant Ramlakhan alleged that he had worked as a "Mate" (supervisor) under NREGA scheme in village Bhauri from 24.06.2013 to 24.08.2013 at the instance of accused Rameshwar, who was the then Village Pradhan. When Ramlakhan went to collect his two month's pending wages of Rs.5,520/- from accused Rameshwar, the latter refused to pay and abused him with caste-based slurs. That same night at approx. 8:00 pm the accused Rameshwar along with co-accused Ashish, Antu @ Durgesh, Suresh and Indrajit arrived at Ramlakhan's house armed with lathis, axes and an illegal firearm and declared, "इसको आज जिंदा नहीं छोड़ना है, साला ज्यादा नेता बनता है" Ramlakhan, fearing for his life, bolted his door. The accused broke open his door, forcibly entered in his house and beaten him severely with lathis, axes and butt of gun. He submitted a written complaint at police station Raipura on 17.10.2014 requesting action against the accused.

4. The prosecution in total examined six witnesses :-

P.W.-1:- Ramlakhan The complainant of the case who supported the prosecution story and had identified all the accused in court stating that when he demanded wages for two months he was beaten subsequently by the accused persons.

P.W.-2:- Munni Devi (wife of complainant) Corroborated complainant's account in examination-in-chief confirming that all five accused arrived abusing at their house and accepted that the incident occurred inside the house.

P.W.-3:- Constable Phoolchandra Confirmed registration of crime,

preparation of Chik FIR and Khulasa report and made no statement about caste based slurs.

P.W.-4:- SI Satyaveer Singh(Investigating Officer) confirmed taking charge of the investigation; recording of statements, preparation of site plan and made no specific statement about use of casteist words. He did not collect any documentary evidence regarding the complainant's Jati or the accused's Jati during investigation.

P.W.-5:- Dr. Ashok Kumar Garothia conducted the medical examination of the complainant and stated that the injury was about one week old and recommended X-ray. He also proved the injury report as Ext. ka-7.

P.W.-6:- Kamlesh kumar Singh (X-ray Technician) conducted the X-ray of the complainant's left shoulder on 19.10.2013 and the x-ray plate was submitted to Dr. C.M. Tiwari who proved the two copies of X-ray report marked as Ext. k-8.

5. Documentary evidence (Exhibits proved)-

Ext. ka-1- Written complaint, **Ext. ka-2-** Application written by complainant U/s 156(3); **Ext. ka-3-** Chik FIR; **Ext. ka-4-** Photocopy of GD; **Ext. ka-5-** Site plan; **Ext. ka-6-** Charge Sheet; **Ext. ka-7-** injury report of complainant and **Ext. ka-8-** X-ray report.

6. After closing the prosecution evidence, the statement of the accused appellant was recorded under Section 313 Cr.P.C. on 17.4.1986, wherein they denied all the charges and stated that the complainant Ramlakhan was abusing accused Rameshwar in an inebriated state(drunkenly) and on this, the accused gave information to the police station. When police arrived at the spot, the complainant ran away and later filed this false case. The case has been filed due to political and village enmity.

7. After hearing learned counsel for both the parties, learned trial court after

appreciating the evidences both oral as well as documentary, found the appellants guilty of offence as described in paragraph no.2 of this judgement.

8. Feeling aggrieved with the impugned judgment and order of conviction, appellants have preferred the present appeal.

9. At the time of hearing the argument of learned counsel for appellants who has fairly stated that the conviction on merits is not being challenged and the arguments are confined to the question of sentence seeking benefit of Section 4 of Probation of Offenders Act, 1958.

10. Learned A.G.A. for the State supports the judgment of conviction but submits that the present appellant have no criminal antecedents and the incident is quite old.

11. After considering the arguments and after perusal of the material available on record, this Court finds that except the merits of the case, so far as the prayer of learned counsel for the appellants for providing benefits of Section 4 of the Act of 1958 is concerned, it is essential to discuss the legal position in this regard. Section 4 of the Probation of Offenders Act, 1958, is extracted hereunder :-

"4. Power of court to release certain offenders on probation of good conduct.-(1) When any person is found guilty of having committed an offence not punishable with death or imprisonment for life and the court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient to release him on probation of good conduct, then, notwithstanding anything contained in any other law for the time being in force, the court may, instead of sentencing him at once to any punishment direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period, not exceeding three years, as the court may direct, and in the meantime to keep the peace and be of good behaviour:

Provided that the court shall not direct such release of an offender unless

it is satisfied that the offender or his surety, if any, has a fixed place of abode or regular occupation in the place over which the court exercises jurisdiction or in which the offender is likely to live during the period for which he enters into the bond."

12. A similar provision finds place in the Code of Criminal Procedure, there, Section 360 provides :-

"Section 360- Order to release on probation of good conduct or after admonition :-

When any person not under twenty-one years of age is convicted of an offence punishable with fine only or with imprisonment for a term of seven years, or less, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or imprisonment for life, and no previous conviction is proved against the offender, if it appears to the Court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) as the Court may direct and in the meantime to keep the peace and be of good behaviour;

Provided that where any first offender is convicted by a Magistrate of the second class not specially empowered by the High Court, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect, and submit the proceedings to a Magistrate of the first class forwarding the accused to or taking bail for his appearance before, such Magistrate, who shall dispose of the case in the manner provided by Sub-Section (2)."

13. Upon considering the record of the case, the evidences available on record, findings of the trial Court, I have satisfied that the conviction recorded by trial court is based on cogent and reliable evidences and does not call for interference, therefore, the conviction of the appellant is affirmed.

14. However, on the issue of sentence, it is evident that the appellants are the first time offenders. The occurrence is of the year 2014. The appellant has

faced ordeal of trial and an appeal for a long period. The appellants having no criminal history. No adverse material have been produced regarding their conduct. In these circumstances, this Court finds appropriate to invoke the provisions of Section 4 of Probation of Offenders Act, 1958, instead of sending the appellants to imprisonment.

15. In the light of the above, as far as it relates with the conviction of the **appellants namely Rameshwar Singh, Aashish Kumar, Antu @ Durgesh, Suresh and Indrajeet** is maintained but the sentence is modified. Instead of sending the appellants to jail, they are given benefit of Section 4 of The Probation of Offenders Act, 1958 and therefore are released on probation and are directed to file two sureties each to the tune of Rs.10,000/- each along with personal bonds before District Probation Officer concerned and also an undertaking to the effect that they shall maintain peace and good behavior during the period of two years from today. The said bonds are to be filed by the appellants within a period of three months from the date of receipt of certified copy of this judgment.

16. In case of breach of any of the above conditions, the appellant shall be taken into custody and shall have to undergo sentence awarded to them.

17. With the above modification, the instant criminal appeal is partly allowed.

18. A certified copy of the order be also sent to the court concerned for compliance.

19. Office is directed to communicate this order to the court concerned for necessary compliance.

20. Trial court record shall also be sent back to the district court concerned.

April 10, 2026
Dev

(Mrs. Vani Ranjan Agrawal,J.)