



2026:ANE:25119

HIGH COURT OF JUDICATURE AT ALLAHABAD

JAIL APPEAL No. - 6900 of 2017

Mool Chand

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s) : , From Jail, Shivam Agarwal, Vinod
Kumar Sahu
Counsel for Respondent(s) : G.A.

Court No. - 93

HON'BLE MRS. VANI RANJAN AGRAWAL, J.

1. The instant appeal has been preferred against the Judgment and Order dated 31.10.2017 passed by the learned Additional District and Sessions Judge, Court No.6, Bijnor in Sessions Case No.198 of 2017, under Sections 307, 326, 504 and 506 of the Indian Penal Code, whereby the appellant has been convicted and sentenced as under:-

i) Under Section 307 I.P.C. - Rigorous Imprisonment for a period of ten years to appellant alongwith fine of Rs.5,000/- and in case of default in payment of fine the appellant shall undergo three months additional imprisonment.

ii) Under Section 326 I.P.C. - Rigorous Imprisonment for a period of ten years to appellant alongwith fine of Rs.5,000/- and in case of default in payment of fine the appellant shall undergo three months additional imprisonment.

iii) Under Section 504 and 506 I.P.C. - Rigorous Imprisonment for a period of two years to appellant.

All the sentences shall run concurrently.

2. Heard Sri Shivam Agrawal, learned counsel for the appellant and Sri Rahul Asthana, learned A.G.A. appearing for the State.

3. In brief, the prosecution story is that a written complaint was submitted by

the complainant, Ms Reena, at P.S. Najibabad, on August 14, 2016. It stated that her father, Moolchand, used to frequently beat her mother, Geeta. On August 13, 2016, at around 9:00 am, her father Moolchand attacked her mother Geeta with a heavy knife with the intent to kill her. As a result of the attack, Geeta's face and two fingers of her hand were cut, and she was covered in blood. Her father said, "***You wretch, I will not leave you alive***". The witnesses to this incident were Amit S/o Surajpal and others. The complainant expressed a serious threat to her life and lives of her family.

During the investigation, the I.O. recorded the statements of the witnesses, inspected the site of the incident, prepared the site map, conducted the medical examination of the injured, and completed other formalities.

3. The prosecution in order to support its case examined the following witnesses :

P.W.1- Ms. Reena (Complainant)

P.W.2- Mrs. Geeta Devi (Victim)

P.W.3- Dr. Sheel Kumar Gautam

P.W. 4- S.I. Mahesh Chand

4. The Documentary Evidences submitted by the prosecution were as follows:

1. Ext. Ka-1- Written complaint(Tehrir)

2. Ext. Ka-2- Recovery memo of the weapon

3. Ext. Ka-3- Medical report of Mrs. Geeta

4. Ext. Ka-4- Site map(Naksha Nazri)

5. Ext. Ka-5- Chargsheet

6. Ext. Ka-6- Chik FIR

7. Ext Ka-7- Copy of the G.D.

5. Subsequently, statements of the accused were recorded under section 313 Cr.P.C. in which he denied the incident and stated that a false case was slapped upon him.

P.W.-1 Ms. Reena supported the prosecution version and stated that her father attacked her mother and the incident was witnessed by other people too. Due to injuries inflicted on her mother her condition became serious and the doctor referred her for further treatment.

P.W.-2 Geeta is the mother of the complainant and fully supported the prosecution version stating that her husband had abused her and threatened to kill her. She stated that she became unconscious and regained consciousness at the Samipur Government Hospital.

P.W.-3 Dr. Sheel Kumar Gautam stated in his examination-in-chief that he conducted the medical examination of Geeta proved as Ext. ka-3 wherein she sustained the following 8 injuries:

- (i). Incised wound 3.5 cm x 1 cm bone deep, on the right cheek, which was bleeding and the skin was hanging.
- (ii). Incised wound 4.5 cm x 1 cm bone deep, present on the inner side of the left palm, which was bleeding.
- (iii). Incised wound 3.5 cm x 1 cm bone deep, present on the left palm in the direction of the little finger.
- (iv). Incised wound 2 cm x 1 cm bone deep, present on the inner side of the left forearm at the wrist joint.
- (v). Incised wound 3 cm x 1 cm skin deep, present in a linear shape on the right forearm, 7 cm below the elbow joint.
- (vi). Multiple incised wounds in an area of 10 cm x 4 cm, bone deep, present on the inner part of the right forearm.
- (vii). The little finger of the right hand was severed and separated.
- (iix). The right finger of the right hand was severed and was hanging by the broken skin.

P.W.-4 S.I Mahesh Chand in his examination confirmed all the investigative work related to this case and proved the site map as Exr ka-4, the chargesheet as Ext. ka-5, the chik FIR as Ext. ka-6 and the copy of the G.D. as Ext. ka-7.

6. Learned counsel for the appellant submits that the incident is dated

13.8.2016. During trial the appellant was not admitted to bail, and after conviction also the appellant was not granted bail by this Court. The judgement and order of conviction and sentence passed by the learned trial Court is dated 31.10.2017, which means the appellant by now has undergone more than nine years in jail.

7. Similar is the stand of the learned Additional Government Advocate for the State respondent.

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

(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.

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

10. 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 him in jail. The remaining sentence of the appellant is converted into fine which is quantified as Rs.5,000/- under

the aforesaid Sections, which shall be deposited to the injured/family members of injured. The appellant is directed to deposit the entire amount of fine within a period of three months from today before the Court concerned.

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

12. 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.

February 5, 2026

Dev

(Mrs. Vani Ranjan Agrawal,J.)