



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 16.04.2024

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**CRL.A. 633/2001**

CHET RAM YADAV & ANR.

....Appellants

Through: Mr. M.L. Yadav, Advocate.

Versus

STATE OF DELHI

.....Respondent

Through: Mr. Sanjeev Sabharwal, APP for State  
with SI Ashok Kr., PS JP Kalam.

Mr. Arvind Kumar and Mr. Ravi  
Shankar, Advocates with Injured in  
person.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**JUDGMENT (ORAL)**

1. The present appeal has been instituted under Section 374 Cr.P.C. against the judgement of conviction dated 30.08.2001 and order on sentence dated 31.08.2001 passed by the Trial Court in Sessions Case No.64/2001 arising out of FIR No. 73/1991 registered under Sections 308/34 IPC at P.S. Jaffarpur Kalan.

Vide the impugned judgement of conviction, the appellants were convicted for the offence under Section 308 IPC. Vide the order on sentence, they were directed to undergo rigorous imprisonment for five years and payment of fine of Rs.5,000/- in default whereof, they were directed to further undergo simple imprisonment for six months. Benefit of section 428 Cr.P.C. was also granted to the appellants.

2. In trial, the prosecution examined a total of 12 witnesses. The complainant *Dilbagh Singh* was examined as PW-1. He deposed that on



12.09.1991 at about 6 PM, he alongwith the injured *Roop Chand* had come to look after the fields of Hans Ashram. While he had gone inside the field, the injured remained on the road. After he had reached a distance of about 20-25 feet, he heard the shrieks of the injured, wherein he saw that the appellants were beating the injured. The appellant *Raj Kumar @ Raju* was giving hockey blows on the head of the injured whereas the appellant *Chet Ram* was giving fist and slap blows. He ran towards the injured and saw *Ramesh Kumar* running towards the injured from the other side. On seeing them, the appellants ran away from the spot. Thereafter, he took the injured to the hospital. *Ramesh Kumar* was examined as PW-2, who stated that he had heard the shrieks of the sewadar *Roop Chand*/injured and saw that the appellants were giving beatings to the injured. Thereafter, he ran towards the injured, and on seeing this, the appellants ran away from the spot.

3. The injured *Roop Chand* was examined as PW-3, who deposed that he was working as a sewadar in Hans Ashram since 1988 and that *Dilbagh Singh* and *Ramesh Kumar* were also working as sewadars in the Ashram. He stated that on 12.09.1991 at 6:15 PM, he went to see the jawar crops with *Dilbagh Singh*, and while *Dilbagh Singh* went inside the field, he remained on the road. After some time, the appellants herein came and while appellant *Chet Ram* started giving fist blows to him, appellant *Raj Kumar* started giving hockey stick blows on his left leg and on the left side of his head. As a consequence, he started bleeding and became unconscious. He deposed that he regained consciousness in the hospital. He further deposed that the appellants were having a dispute with respect to the land of the Ashram and were therefore, inimical towards him/other associated persons. The rest of the witnesses were formal witnesses.



4. The appellants refuted the case put forth against them and also examined a witness in support of their contentions. In their statement under Section 313 Cr.P.C., the appellants stated that the complainant party was on litigating terms with them and that they had been falsely implicated in the present case. In their defence, the appellants produced one *Ram Chander*, who deposed that the land of the Gram Sabha had been encroached upon by the Hans Ashram and in this regard, he also proved complaints lodged with several authorities. He further deposed that 9-10 years back, there had been an altercation upon the said issues, when some villagers protested against the encroachment of the Gram Sabha land and the appellant *Chet Ram* was leading them. It was also argued that there was discrepancies in the statements of the prosecution witnesses, which raised doubt upon the case of the prosecution.

5. After perusing the testimonies of the witnesses as well as the other evidence placed on record, the learned trial court came to the conclusion that the prosecution had led sufficient evidence to bring home the guilt of the accused. It was observed that the prosecution case was based upon the testimony of the injured *Roop Chand* which was adequately corroborated by ocular evidence (i.e. deposition of PW-1 and PW-2) as well as medical evidence. Insofar as the contentions of the appellants were concerned, it was observed that the argument raised from their side were not cogent and that the discrepancies pointed out by them were minor in nature.

6. In the present proceedings, the appellants have challenged their conviction by contending that the impugned judgement is contrary to law and the facts established by the material on record. It has also been averred that there is no independent corroboration to the evidence of the injured's



testimony and further that proper examination of the appellants under Section 313 Cr.P.C. has not taken place, thereby causing prejudice to them. It is further argued that the medical evidence does not support the case of the prosecution.

7. Concededly, the appellants have been convicted for the offence punishable under Section 308 IPC. While the appellant *Chet Ram* was arrested on 13.09.1991, the other appellant *Raj Kumar* was arrested on 19.09.1991. The appellants were also known to the complainant and injured inasmuch as they have themselves admitted that the complainant party was in litigation with them/the appellants. Although the appellants have raised doubts upon the reliance to be put on the testimony of the injured inasmuch as the same is not duly corroborated by independent witnesses, the same in and of itself cannot be the sole reason for doubting the testimony inasmuch the same is duly corroborated by testimonies of two witnesses namely PW-1 and PW-2 as well as the medical evidence. After a perusal of the entire evidence placed on record, it can be seen that the prosecution has been able to prove its case against the appellants and the inconsistencies in the statement of the witnesses are only minor in nature and not fatal to the case of the prosecution.

8. Today, during the course of submissions, learned counsel for the appellants has stated that the appellants have entered into a settlement with the injured *Rup Singh @ Rup Chand*. In terms of the settlement, the appellants have agreed to pay a sum of Rs.4,00,000/- to the injured for the injuries sustained by him and in this regard, a demand draft bearing No. 507300 dated 15.04.2024 drawn on ICICI Bank has been handed over to the injured and a copy thereof is taken on record.



9. The injured, who is present in person and identified by his counsel as well as I.O., states that the appellants were known to him and with the passage of time, he has forgiven them. Further, he acknowledges the factum of settlement between them and in this regard, he has also placed on record an affidavit, wherein it has been stated the appellants have agreed to adequately compensate him for the injuries sustained and that he has forgiven them. He further states that he has no objection if the appellants are released from the jail. He further acknowledges receipt of the entire settlement amount in terms of the settlement.

10. In the present case, the appellants seek modification of the sentence to the period undergone, based upon the fact that several years have passed since the incident and that a settlement has been arrived at between the appellants and injured. Reference in this regard is made to the decision dated 05.01.2021 passed in **CRL.A. 24/2021** titled 'Murali v. State represented by Inspector of Police' wherein considering the facts of the case as well as the factum of settlement between the parties, the appeals came to be allowed and the sentence of the appellants therein were reduced to the period already undergone.

11. In the present case, report under the Probation of Offenders Act of the appellants have been placed on record. The report of appellant Raj Kumar mentions that he has been on bail since 2001 and has not committed any crime since his release. Further, it has been opined that he would continue to live in the same manner and there is no chance of him becoming a threat to the society. Same observations have been made qua the other appellant namely Chet Ram. Further, the nominal roll of the appellants have also been placed on record as per which they are not found involved in any other case.



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12. Considering the aforesaid facts and circumstance, judgement of conviction dated 30.08.2001 and order on sentence dated 31.08.2001 passed by the Trial Court in Sessions Case No.64/2001 is upheld. However, considering that the parties have settled the matter and the injured has forgiven the appellants and further that the appellants have paid Rs.4 lacs as compensation, the appellants are directed to be released on probation under Section 4 of the Probation of Offenders Act, 1958 on entering into bond and two sureties to ensure that they would maintain peace and good behaviour for the remaining part of his sentence, failing which they may be called upon to serve their sentence. The appeal is disposed of in the above terms.

13. A copy of the order be communicated to the concerned Trial Court and Jail Superintendent.

**MANOJ KUMAR OHRI**  
**(JUDGE)**

**APRIL 16, 2024**

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