
(2004) 09 AHC CK 0066

In the Allahabad High Court

Case No : Criminal Appeal No's. 6485 and 6541 of 2003

Devi Sharan and Others (in Jail)

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 18-09-2004

Acts Referred:

Penal Code, 1860 (IPC) — Section 147, 148, 149, 302, 323

Citation : (2005) 1 ACR 93

Hon'ble Judges : R.C. Deepak, J

Bench : Single Bench

Advocate : V.C. Tiwary, Manish Tiwary, A.K. Awasthi and S.S. Giri, for the Appellant; J.S. Sengar and M.L. Shukla, A.G.A., for the Respondent

Judgement

R.C. Deepak, J.—I have heard Sri V.C. Tiwary, learned senior counsel assisted by Sri Shashank Shekhar and Sri Manish Tiwary, learned Counsel for the accused-Appellants, Sri J.S. Sengar, learned special counsel, Sri. M. L. Shukla, learned Additional Government Advocate for the State and perused the record.

2. These two Criminal Appeals No. 6485 of 2003 and 6541 of 2003 have been filed against one and the same judgment and order of the learned Additional Sessions Judge, Ghaziabad, dated 3.11.2003 and 5.11.2003 in the Sessions Trial No. 178 of 1990 arising out of Case Crime No. 1A of 1989 under Sections 147, 148, 149, 323, 302 and 452, I.P.C., Police Station Link Road, Ghaziabad.

3. These appeals have since been consolidated with each other by this Hon'ble Court vide its order dated 7.7.2004.

4. It may be mentioned that the present is not the stage to pause, ponder, consider all the facts and circumstances of the case and weigh the entire evidence on record in order ultimately to answer affirmatively or negatively, the factually and legally important questions involved therein who assaulted whom, how, where, with what weapons and whose assault actually proved fatal to Ram Bahadur and Safdar Hashmi particularly in the stampede in the course of

occurrence among the huge crowd of people comprising informant and supporters besides a large number of villagers and labourers who had been seeing since long before the occurrence a drama which was being shown at the instance of Ram Nath Jha the candidate of C.I.T.U. for the post of Sabhasad in City Board Election, Ghaziabad at/and near about the place of occurrence. The accused and their supporters, who allegedly happened to reach the drama place subsequently, but allegedly before the occurrence.

5. The accused/convicts/ Appellants of the appeal/appeals had been on bail during their trial in the court below. They do not appear to have ever misused the liberty granted to them by way of bail. The co-convicted accused have already been enlarged on bail by this Hon"ble Court.

6. In view of what has been observed hitherto above, but without prejudice to the merits of the appeal/appeals, the accused/ convicts/ Appellants named Devi Sharan, Yunus Ali, Tahir and Mukesh Sharma convicted under Sections 147, 148, 452, 323/149 and 302/149, I.P.C. in Sessions Trial No. 178 of 1990, Police Station Link Road, district Ghaziabad shall be released on bail on their furnishing a personal bond with two sureties each in the like amount to the satisfaction of the Court concerned.