
(1997) 05 AHC CK 0023
In the Allahabad High Court
Case No : Criminal Revision No. 1397 of 1984

Jalil and Another

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 15-05-1997

Acts Referred:

Penal Code, 1860 (IPC) — Section 323, 34, 452

Citation : (1997) 05 AHC CK 0023

Hon'ble Judges : Kundan Singh, J

Bench : Single Bench

Judgement

Kundan Singh, J.—learned Counsel for the applicants appeared and made a statement that in the absence of any instruction, he is unable to argue this revision. Heard learned A.G.A. and perused the impugned judgments.

2. This revision is directed against the judgment and order dated 5.7.1984 of II Ird Additional Sessions Judge in Criminal Appeal No. 89 of 1983 dismissing the appeal and affirming the conviction and sentence of the applicants awarded by the learned Assistant Sessions Judge. In this case, Ram Gopal complainant was assaulted with Danda and chain of bicycle when his wife Smt. Shakuntala intervene to her husband. She was also beaten inside the house of the complainant. Dr. Mahrotra found seven injuries on the body of the complainant and two injuries on the body of Shakuntala. The factum of incident was proved by Ram Gopal (P.W. 1), Shakuntala (P.W. 2) and Om Prakash (P.W. 3). Learned Magistrate believed the evidence of P. Ws. 1, 2 and 3 and held guilty the applicants for the offence charged with, convicted both the applicants u/s 323/34, I.P.C. and sentenced to one year R.I. They were also convicted u/s 452, I.P.C. and sentence to two years" R.I. and fine of Rs. 100 each. In default of payment of fine each of them was directed to undergo for further imprisonment of one months" R.I. However, the other co-accused Annu was not found guilty and he was acquitted. Being aggrieved, the applicants preferred their appeal which was dismissed and the conviction and sentence awarded by the court

below were affirmed, the applicants have come before this Court in the aforesaid Criminal Revision. I have examined the impugned Judgment. The complainant was medically examined by Dr. Virendra Nath Mehrotra who found five contusions and two abrasions on his body. While on the body of Smt. Shakuntala, doctor found one lacerated wound and one contusion. All the injuries were in the opinion of the doctor simple in nature. The sentence of two years u/s 452, I.P.C., appears to be severe and not justifiable. In case, the sentence of two years is reduced to one year u/s 452, I.P.C., which would serve the ends of Justice. As accused are said to have entered in the house of the complainant where they caused injuries to the complainant and his wife and Annu was said to have been armed with a country-made pistol and that country-made pistol was not said to have been used in the commission of the crime and he has already been acquitted by the trial court. The applicants are said to have caused injuries with Danda and Chain of bicycle, the conviction of the applicant is justified.

3. Accordingly, this revision succeeds and is allowed in part. The conviction awarded by the Assistant Sessions Judge in S.T. No. 122 of 1980, by the judgment and order dated 28.10.1983 and affirmed by the I Vth Additional Sessions Judge in Criminal Appeal No. 89 of 1983 by judgment and order dated 5.7.1984 are maintained. However, the sentence u/s 452, I.P.C. is reduced to one year R.I. from two years" R.I. Both substantive sentences u/s 323/34, I.P.C., and Section 452, I.P.C. are directed to run concurrently.