

(2008) 01 CHH CK 0021
In the Chhattisgarh High Court
Case No : Criminal Appeal No. 1113 of 2007

Kumari Bai Yadav and Others

APPELLANT

Vs

State of Chhattisgarh

RESPONDENT

Date of Decision : 10-01-2008

Acts Referred:

Penal Code, 1860 (IPC) — Section 148, 302, 323, 325, 34

Citation : (2008) 4 MPJR 75

Hon'ble Judges : Sunil Kumar Sinha, J; L.C. Bhadoo, J

Bench : Full Bench

Advocate : Janak Ram Verma, for the Appellant; Akhil Mishra, P.L., for the Respondent

Judgement

I.A. No. 1

This is an application filed by the accused/Appellants for suspension of sentence and grant of bail during pendency of this appeal.

Accused/Appellants namely, Kumari Bai Yadav, Johatarin Bai Yadav, Nirasha Bai Yadav & Ganga Bai Yadav, have been convicted for commission of offence u/s 302/34 of the IPC for commission of murder of Sukiya Bai, u/s 325/34 of the IPC for causing grievous hurt to PW-2 Nohar, u/s 323/34 of the IPC for causing simple injuries to PW-1 Naresh, PW-8 Mehtrain Bai & PW-4 Suresh Kumar and u/s 148 of the IPC and each of the accused has been sentenced to undergo imprisonment for life & to pay fine of Rs. 500/-, to undergo R.I. for one year & to pay fine of Rs. 100/-, to undergo R.I. for six months and to undergo R.I. for one year, respectively. In default of payment of total fine amount of Rs. 600/- each of the accused has been sentenced to further undergo R.I. for two months.

Apart from the present accused/Appellants, other 5 accused persons namely, Kripa Ram, Sunil, Brijlal, Raju @ Dular & Kamta Ram have also been convicted and sentenced for the above offences.

Learned Counsel for the Appellants submits that the Appellants are ladies and

there are omnibus statements regarding attack made by accused persons to deceased Sukiya Bai, who sustained two head injuries whereas it has been stated that attack was made by 9 accused persons. No lathis have been recovered from the present Appellants. During trial they were on bail. There are no specific allegations that these Appellants have inflicted the head injuries. Therefore, the substantive sentences imposed upon the Appellants may be suspended.

On the other hand, learned Counsel for the State opposed the bail application.

Having heard learned Counsel for the parties, we have perused the evidence of PW-1 Naresh, PW-2 Nohar , PW-8 Mehtarin Bai as also the evidence of PW-7 Sukalu Ram Sahu. It is not disputed that no lathi was recovered from these Appellants and there are common allegations against them. During trial they were on bail and the attack alleged to have been made by 9 accused persons whereas on the head of deceased two injuries were found.

In view of the above, we are of the considered opinion that it is a fit case in which substantive sentences imposed on Appellants can be suspended. Accordingly, I.A. No. 1 is allowed.

It is directed that substantive sentences imposed on accused/Appellants namely, Kumari Bai Yadav, Johatarin Bai Yadav, Nirasha Bai Yadav & Ganga Bai Yadav shall remain suspended and they are directed to be released on bail on each of them furnishing a personal bond in the sum of Rs. 10,000/-with one surety for the like sum to the satisfaction of the trial Court. They shall appear before the trial Court on 24th April, 2008 and thereafter shall continue to appear there as and when directed in this behalf by the court concerned, till the final disposal of the appeal.

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