
(2009) 12 AHC CK 0259
In the Allahabad High Court
Case No : Criminal Appeal No. 3077 of 2009

Lallu and eight Others	Vs	APPELLANT
State of U.P. and others		RESPONDENT

Date of Decision : 24-12-2009

Acts Referred:

Penal Code, 1860 (IPC) — Section 147, 148, 149, 307, 323

Citation : (2009) 12 AHC CK 0259

Hon'ble Judges : Raj Mani Chauhan, J

Final Decision : Dismissed

Judgement

Raj Mani Chauhan, J.

Heard learned counsel for the appellants, learned A.G.A. on the point of admission of criminal appeal and perused the judgment and order dated 16.12.2009.

1. This criminal appeal has been filed by the accused appellants against the judgment and order dated 16.12.2009, passed by the learned Additional Session Judge, F.T.C No. 2, Lakhimpur Kheri in Sessions Trial No. 242 of 2004 (Case Crime No. 196 of 2002); State Vs Sattar Kha and others, under Sections 147, 148, 307, 323 I.P.C., Police Station Dhaurahra, District Kheri, whereby the learned Additional Sessions Judge has held the accused guilty under Sections 147, 148, 323, 336, 307/149, 504, 506 I.P.C., consequently, he has convicted and sentenced each of the accused to undergo different terms of imprisonment and to pay fine with default stipulation. The maximum sentence awarded by the trial court is of seven years under Section 307/149 I.P.C. Admit.

2. Heard learned counsel for the appellants and learned A.G.A. on the prayer of bail.

3. The submission of learned counsel for the appellants is that in this case there were as many as 13 accused, out of 13 accused, only two accused namely, Guddu and Sattar are said to have opened fire from their gun which caused

injuries to the complainant Jabir Ali, Ishrat Ali, Rahman Guddu and Zahrun Nisha. From a perusal of the injury report of all the five injured referred in the impugned order, it appears that injured Zahrun Nisha, Rahman and Guddu did not sustain any firearm injury; rather they sustained injuries like contusion, abrasion and swelling. Only injured Ishrat Ali sustained one firearm injury. The present accused appellants are said to be armed with lathi at the time of occurrence, but lathi injury found on the three injured like contusion, abrasion and swelling, are simple in nature. These injured had not sustained any grievous injury. The involvement of all the nine accused appellants, prima facie, appears to be false. The accused appellants were on bail during trial and they did not misuse the liberty of bail. Therefore, they deserve to be released on bail.

4. Learned A.G.A. opposed the prayer for bail.

5. Considered the submissions of learned counsel for the appellants and learned A.G.A. The main role of firing has been assigned to coaccused Guddu and Sattar who are not appellants. Keeping in view the fact that the present accused appellants are said to be armed with lathi and no lathi injury of any injured was found to be grievous, without expressing any opinion on the merits of the appeal, appellants may be released on bail.

6. Let accusedappellants Lallu, Sabra Alia @ Sabir Ali, Nadir Ali, Sabir Ali, Sabit Ali, Afjal, Bachanu, Shariyat Ali and Pappu be released on bail in aforesaid Sessions Trial number during pendency of the appeal on their furnishing personal bond with two sureties each in the like amount to the satisfaction of the court concerned.

7. However, the realization fine is not stayed and the same be deposited by the appellants, if not already deposited, within one month from the date of their release, failing which this order of bail shall stand cancelled.