
(2010) 10 UK CK 0028

In the Uttarakhand High Court

Case No : Criminal Appeal No. 213 of 2003 and Government Appeal No. 27 of 2010

Manoj Narayan Aggarwal

APPELLANT

Vs

State of Uttaranchal and Another
 The State Vs Manoj
Narayan Aggarwal and Others

RESPONDENT

Date of Decision : 08-10-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 207, 313, 320, 320(2), 374(2)
Penal Code, 1860 (IPC) — Section 147, 148, 149, 307, 323

Citation : (2011) CriLJ 243 : (2011) 1 NCC 590 : (2011) 1 NCC 114 : (2011) 3 UC 1631 : (2010) 2 UD 660

Hon'ble Judges : Dharam Veer, J

Bench : Single Bench

Judgement

Dharam Veer, J.—Both the above-said appeals have arisen out of a common judgment and order and the issue as well as the evidence and fact involved in both of them being the same, hence both are being disposed of by this common judgment and order.

2. Criminal appeal No. 213/2003 has been preferred by the Appellant-Manoj Narayan Aggarwal u/s 374(2) of the Code of Criminal Procedure, 1973 (hereinafter to be referred as Code of Criminal Procedure), against the judgment and order dated 24.07.2003 passed by the Additional Sessions Judge/Ist FTC, US Nagar (Rudrapur) in S.T. No. 402/2000, State v. Manoj Narayan Aggarwal and Ors. thereby convicting and sentencing the Appellant/accused u/s 324 of the Indian Penal Code, 1860 [hereinafter to be referred as the IPC] for two years" R.I. However, the Appellant/accused Manoj Narayan Aggarwal was acquitted for the charge levelled u/s 147/148/452/323/427/506/307 and 149 IPC.

3. Government Appeal No. 71/2003 has been preferred by the Appellant/State, u/s 378 of Code of Criminal Procedure, against the same judgment and order dated 24.07.2003 passed by the same court i.e. the Additional Sessions Judge/Ist FTC,

US Nagar (Rudrapur) in S.T. No. 402/2000, State v. Manoj Narayan Aggarwal and Ors. whereby the trial court has acquitted the accused/Respondent Manoj Narayan Aggarwal for the offences punishable u/s 147/148/452/323/427/506/307 and 149 IPC and by the same judgment and order, rest of the accused persons were acquitted for the offences punishable under Sections 147/148/452/323/324/427/506/307 and 149 IPC.

4. I have heard learned Counsel for both the parties in both the appeals and perused the entire material available on record.

5. In brief, the prosecution case is that PW1 Meenakshi Aggarwal lodged an FIR on 4.11.1999 at 10:30 PM at PS Kichha stating therein that in the night of 4.11.99, accused Manoj Narayan Aggarwal gave a threat call to DS Sirohi, Manager of Parag Farm to meet him at the gate otherwise it would not be good for him. The reason assigned in the FIR for this threat call was that there was a dispute between the complainant and accused Manoj Narayan Aggarwal regarding the land and property of Parag Farm, for which various litigations in various courts were going on. Accused Manoj Narayan Aggarwal illegally wanted to grab the land of Parag Farm. On that day at 9:30 PM, when the complainant along with her mother Smt. Shashi Aggarwal, DS Sirohi, Farm Manager, RK Yadav, Munna Lal, Kallu Giri, Hanspal, Jarnail Singh and other persons were there in the office and verandah of the Farm House, then with the common intention, accused Manoj Narayan Aggarwal on his vehicle No. DL2C-H-6429 along with another Safari Car No. HR-10B-9766, got entered those cars inside the verandah in front of the office, and with the common intention and knowledge, with intention to grab the property of Farm, forcefully broken the main gate and windows of the Farm and also broken the Jeep of Farm bearing No. UP81-2184. It was also stated that her employee R.K. Yadav was also severely beaten and made injured with Lathi-Dandas. It was also stated that in this incident, accused Manoj Narayan Aggarwal was accompanied by Ashok Aggarwal, Krishan Pal Singh Tomar, Rajwanshi Yadav, Arvind, Jagannath-Fitter, Nand Lal, Hari Prasad, Vinay @ Kukki and so many other persons. These accused persons suddenly entered in the office and started breaking the doors, windows and they also broken the boundary of Farm. It was further stated that the accused also became aggressive to beat the complainant along with her associates. These accused persons also shot fires. All the persons of the Farm are insecure and are collected on the Farm and havoc was caused. This application was sent by the complainant Meenakshi Aggarwal through her Manager DS Sirohi in the police station and accordingly, with the same averments, the FIR Ex. Ka.1 was lodged. On the basis of this FIR Ex. Ka-1, H.M. Ramesh Pal Singh prepared the CHIK FIR Ex. Ka-10. In the same process, entry was also made by him in the G.D., copy of which is Ex. Ka-11. Investigation of the case was entrusted to PW5 SI Somveer Singh. Injurd Radha Krishan Yadav was medically been examined on 4.11.1999 at 11 PM by PW4 Dr. PD Pandey, who after the medical examination, prepared the injury report Ex. Ka-2. The I.O. took in his possession the broken Cars and pieces of glasses and prepared Fard Ex. Ka-4. He also took the bloodstained clothes of injured Radha

Krishna Yadav and prepared Fard Ex. Ka-5. The I.O. also inspected the place of occurrence and prepared the site plan Ex. Ka-3. During the course of investigation, the I.O. recorded the statements of witnesses and after completing the investigation, he filed the charge sheet against the accused/Respondent Jagannath as Ex. Ka-8 and against the rest of the accused as Ex. Ka-7.

6. Learned Chief Judicial Magistrate, US Nagar appears to have committed the case to the court of Sessions on 10.11.2000 after giving necessary copies to the accused persons as required u/s 207 Code of Criminal Procedure.

7. On 4.3.2002, learned Sessions Judge, US Nagar framed the charge against the accused Manoj Kumar Aggarwal, Shambhu Yadav, Liyakat, Sher Mohammad, Anil Kumar, Firoz, Nasruddin, Rajesh, Ram Bachan, Ravindra Singh, Salim, Mohammad Abid, Mustakeen, Rama Shankar, Sita Ram, Mahendra Singh, Shambhu Singh, Rakesh, Karan Singh, Ravindra Pal Singh, Maan Singh, Kaaru, Nar Singh, Vinay Kumar Saxena @ Kukki, Prem Singh Rawat, Rajvanshi Yadav, Arvind Yadav, Dharmendra Kumar, Jagannath, Nand Lal, Hanif Miyan, Riyasat, Mohd. Sajid, Rudal, Ajay Kumar, Bunda, Raj Kumar, Hast Bahadur, Manoj Aggarwal and Krishan Pal Singh, for the offences punishable u/s 147/148/307 and 149/452/323/324/427/506 IPC. These charges were read over and explained to the accused persons who pleaded not guilty and claimed to be tried.

8. The prosecution in order to prove its case got examined PW1 Meenakshi Aggarwal, complainant and eyewitness, PW2 Radha Krishna Yadav, injured witness, PW3 Munna Lal, eyewitness, PW4 Dr. P.D. Pandey, who medically examined the injured Radha Krishna Yadav and PW5 S.I. Somveer Singh, I.O. of the case.

9. After that the statements of the accused were recorded u/s 313 Code of Criminal Procedure. The oral and documentary evidence was put to each of the accused in question form. Each of the accused-Respondents denied the allegations made against them and stated that they have been falsely implicated due to enmity. However, no oral or documentary evidence was produced in defence.

10. After appreciating the entire material available on record and hearing learned Counsel for the parties, learned Addl. Sessions Judge/Ist FTC, US Nagar (Rudrapur) vide judgment and order dated 24.7.2003 has convicted the Appellant/accused Manoj Narayan Aggarwal u/s 324 IPC and sentenced him to two years" RI, however he was acquitted for the offences punishable u/s 147/148/452/323/427/506/307 and 149 IPC. Vide the same judgment and order, co-accused Krishan Pal Singh Tomar, Hanif, Rajvanshi Yadav, Arvind Yadav, Riyasat, Shambhu Yadav, Manoj Kumar, Liyakat, Sher Mohammad, Rudal, Ajay Kumar Mishra, Anil Kumar, Dharmendra Kumar, Nandan Singh @ Nand Lal, Firoz, Nasruddin, Rajesh, Mohd. Sajid, Ram Bachan, Ravindra Singh, Salim, Mohd. Abid, Mustakim, Rama Shankar, Sita Ram, Mahendra Singh, Shambhu Singh, Bunda, Rakesh, Raj Kumar, Karan Singh, Ravindra Pal Singh, Maan Singh, Kaaru,

Nar Singh, Hast Bahadur, Vinay Kumar Saxena @ Kukki, Prem Singh Rawat and Jagannath Fitter were acquitted for the offences punishable under Sections 147/148/452/323/324/427/506/307 and 149 IPC. Assailing the said judgment and order dated 24.7.2003, these appeals have been preferred.

11. Before any further discussion, it is pertinent to mention the injury report Ex. Ka-2 of injured Radha Krishna Yadav, who was medically examined on 4.11.99 at 11 PM by PW4 Dr. PD Pandey. The injuries recorded in the said report are quoted as below:

1. I.W. 3 cm x 0.5 cm x bone deep on back of head. Fresh bleeding present. Advised x-ray.
2. I.W. 1 cm x 0.2 cm x bone deep on left eyebrow
3. Traumatic swelling over nose 2 cm x 2 cm, advised x-ray and referred to ENT Surgeon.
4. Bleeding present from both nostrils.
5. T.S. 4 cm x 2 cm on tarsal of right hand. Advised x-ray.

Opinion-Advised x-ray for No. 1, No. 3 and No. 5 injuries. Duration fresh. No. 1 and 2 caused by sharp object, rest by blunt object.

12. To prove the aforesaid injury report, the prosecution has examined P.W.4 Dr. P.D. Pandey, who has stated that on 4.11.1999, he was posted as Medical Officer and at 11 PM, he has examined the injuries on the person of injured R.K. Yadav. In his opinion, injuries No. 1 and 2 could be caused by sharp object while the rest of the injuries could be caused by KUNDALA and all the injuries were fresh. These injuries could have possibly been caused at 9:30 PM on 4.11.99 by Lathi-Dandas and sharp object. He also prepared the injury report after the examination, i.e. Ex. Ka-2.

13. To further prove its case, the prosecution has examined PW1 Meenakshi Aggarwal who stated that she is having Parag Agriculture Farm at Kichha and with regard to the said Farm, there is a dispute pending between her and her brother, due to which her brother keeps enmity with her. On 4.11.99 in the night, a threat call of accused Manoj Narain Aggarwal was received to her Manager DS Sirohi to meet him at the main gate; otherwise it would not be good for him. At 9:30 PM, when she along with her mother Smt. Shashi Aggarwal, RK Yadav and DS Sirohi was standing in the verandah and office of Farm, then suddenly accused Manoj Narain Aggarwal on a Tata Safari Car and other accused in another car came and got these cars climbed on the stairs. After coming down from the cars, with the common intention, all the accused, being armed with Dandas, KANTAS, Lathis and other weapons, suddenly attacked upon her and her associates with the intention to kill them. The accused also started breaking windows, sofas, furniture etc. and also assaulted R.K. Yadav with Dandas and Kantas. Accused Manoj Narayan was accompanied with Krishan Pal Tomar, Ashok

Aggarwal, Rajvanshi Yadav, Arvind Yadav, Hari Prasad, Jagannath, Vinay @ Kukki, Nand Lal, PS Rawat and several other persons. The other accused were Karan Singh, Nar Singh, Maan Singh, Ravindra Pal Singh, Harsh Bahadur, Rajesh Singh, Rakesh, Dharmendra Yadav, Mahendra, Raj Kumar and Manoj Kumar. At that time, the electric light was there. The accused were present in the court. The report of this incident was written by her and then she gave to her Manager DS Sirohi and accordingly, the FIR was lodged, i.e. Ex. Ka-1. She was surrounded in her office by the accused. The accused persons also broke the Jeep of the Farm and they also broke the Boundary of the Farm and further shot two fires. This witness was cross-examined at length by the defence counsel but nothing could be elicited which could have cast any doubt in her evidence. The evidence of this witness is reliable, believable and natural and inspires implicit confidence.

14. PW2 Radha Krishan Yadav, who is the injured witness of the case, has stated that on 4.11.1999 at about 9:30 PM, he was sitting in the office of Parag Farm. He was accompanied by Meenakshi Aggarwal, her mother, DS Sirohi, Manager, Munna Lal, Kallu Giri and Hem Pal. He was the Manager of the Farm. Before 15-20 minutes, D.S. Sirohi received a threat call from the accused Manoj Aggarwal. When the talks were going on about this topic, then suddenly a sound of two fires was heard from the main gate. On coming out, it was found that two cars, one Cielo and another Tat Safari, were standing on the stairs. From those cars, accused Manoj Aggarwal, Krishan Pal Singh Tomar, Ashok Aggarwal, Prem Singh Rawat, Shiv Kumar, Jagannath, Maan Singh, Rajvanshi and others came out, who threw the telephone and furniture lying in the verandah and they also broke the window of main gate. When he stopped them to do so, accused Manoj Aggarwal and Ashok Aggarwal assaulted upon him with Dandas. Accused Krishan Pal Tomar was armed with a KANTA (a sharp edged weapon); accused Vinay @ Kukki was armed with a Tamancha. All these accused beaten him with the intention to kill. He sustained two injuries from a sharp edged weapon, and also sustained injuries above eyebrow, wrist, nose and other parts of the body. These accused were also accompanied by accused Liyakat, Firoz, Ravindra Pal Singh, Karu, Nar Singh and others, who were sabotaging. There was a land dispute between accused Manoj Aggarwal and Meenakshi, due to which accused had committed Marpit. He was also medically been examined. Report of the incident was written by Meenakshi, who sent to the police station through DS Sirohi. It was also stated that the accused had also broken the Jeep of the Farm. This witness too was cross-examined at length but he could not be shaken away from his testimony. The evidence of this witness too is completely reliable, believable and natural and inspires implicit confidence.

15. PW3 Munna Lal, also an eyewitness of the incident, has stated that on 4.11.99 at about 9:30 PM, his duty was in the office of Parag Farm. His duty hours were from 8 PM till 4 AM. At 9:30 PM, he along with Hanspal, Jarnail Singh, Km. Meenakshi and her mother Shashi Aggarwal, DS Sirohi and RK Yadav was in the office. Accused Manoj Aggarwal, Ashok Aggarwal, KP Singh Tomar, Rajvanshi Yadav, Arvind Yadav, Jagannath, Hari Prasad, Vinay @ Kukki and PS

Rawat came in their vehicles. Accused climbed their cars on the stairs and after entering inside the gate, they also shot fire. The accused also beaten RK Yadav with Lathis-Dandas and they also committed sabotage in the office and broken the glasses and furniture. RK Yadav sustained several injuries. The report was lodged by Meenakshi Aggarwal. He also stated that the accused had committed this incident in order to take possession over the Farm. This witness was also cross-examined at length by the defence counsel but nothing could be elicited which could have cast any doubt in his evidence. The evidence of this witness is reliable, believable and natural and inspires implicit confidence.

16. PW5 SI Somveer Singh, IO of the case, who stated that on 4.11.99 he was posted as SI at PS Kichha and on that day this case was registered in the police station in his presence. He himself started the investigation of this case. He inspected the place of occurrence and prepared the site plan Ex. Ka-3. He also prepared the Fard on the spot for recovering the cars as well as the pieces of broken glasses of cars and prepared Fard Ex. Ka-4. He also recovered the bloodstained clothes of injured Radha Krishan Yadav and prepared Fard Ex. Ka-5. During investigation he recorded the statements of the witnesses and after completing the investigation, he filed the charge sheets, which are Ex. Ka-6 and Ka-7 respectively. CHIK FIR of the case was prepared by H.M. Ramesh Pal Singh, i.e. Ex. Ka-10 and entry in the GD was also made by him, copy of which is Ex. Ka-11.

17. After that the statements of the accused were recorded u/s 313 Code of Criminal Procedure. The oral and documentary evidence was put to each of the accused in question form. Each of the accused-Respondents denied the allegations made against them and stated that they have been falsely implicated due to enmity. However, no oral or documentary evidence was produced in defence.

18. Sri Nandan Arya, learned AGA for the State argued that as per the evidence, as discussed above, the prosecution has proved its case against the accused/ Respondents beyond reasonable doubt and the trial court has misread the evidence thereby recording the acquittal of the Respondents. I find some force in this argument. As far as the prosecution version is concerned, it is pertinent to mention here that PW2 Radha Krishan Yadav, who is the injured witness of the case, has stated that on 4.11.1999 at about 9:30 PM, he was sitting in the office of Parag Farm. He was accompanied by Meenakshi Aggarwal, her mother and DS Sirohi, Manager, Munna Lal, Kallu Giri and Hem Pal were also present. He was the Manager of the Farm. Before 15-20 minutes, D.S. Sirohi received a threat call from accused Manoj Aggarwal. When the talks were going on about this, then suddenly a sound of two fires was heard from the main gate. On coming out, it was seen that two cars, one Cielo and another Tat Safari, were standing on the stairs. From those cars, accused Manoj Aggarwal, Krishan Pal Singh Tomar, Ashok Aggarwal, Prem Singh Rawat, Shiv Kumar, Jagannath, Maan Singh, Rajvanshi and others came out, who threw the telephone and furniture lying in

the verandah and they also broke the window of main gate. When he stopped them to do so, accused Manoj Aggarwal and Ashok Aggarwal assaulted upon him with Dandas. Accused Krishan Pal Tomar was armed with a KANTA (a sharp edged weapon); accused Vinay @ Kukki was armed with a Tamancha. All these accused beaten him with the intention to kill. He sustained two injuries from a sharp edged weapon, and also sustained injuries above eyebrow, wrist, nose and other parts of the body. These accused were also accompanied by accused Liyakat, Firoz, Ravindra Pal Singh, Kaaru, Nar Singh and others, who were sabotaging and also caused injuries to him. There was a land dispute between accused Manoj Aggarwal and Meenakshi, due to which accused had committed Marpit. He was also medically been examined. Report of the incident was written by Meenakshi, who sent to the police station through DS Sirohi. It was also stated that the accused had also broken the Jeep of the Farm. The evidence of this witness is completely reliable, believable and natural and inspires implicit confidence and even the same gets full corroboration from the oral evidence of PW1 Meenakshi and PW3 Munna Lal, who are also the eyewitnesses of the incident who have categorically supported the evidence given by PW2 Radha Krishan Yadav.

19. Besides above, the oral testimony of injured Radha Krishan Yadav (PW2) also gets full corroboration from the medical evidence. As per the medical opinion, in the body of injured, the medical officer i.e. PW4 Dr. P.D. Pandey found as many as two incised wounds, one on the back of head and other on the left eyebrow and besides there were also traumatic swelling over his nose and hand and even bleeding from both the nostrils was also found. In the opinion of the medical officer, incised wounds could be caused by sharp object while the rest of the injuries could be caused by KUNDALA and all the injuries were fresh. These injuries could have possibly been caused at 9:30 PM on 4.11.99 by Lathi-Dandas and sharp object. Therefore, it is amply clear that the medical version fully corroborates the prosecution story.

20. Sri Arvind Vashisth and Sri Nand Gopal, Advocate for the Respondents/accused, submitted that there is some contradictions in the statements of the prosecution witnesses about the names of the accused persons, as stated by them in their evidence as well as in the FIR. In order to appreciate the evidence, the case has to be looked into in perspective of each of the accused. It is settled law that the conviction can be held on the basis of solitary evidence but that should inspire implicit confidence. On a careful perusal of the entire evidence, I find that the evidence given by the injured i.e. the PW2 Radha Krishan Yadav has to be accepted in its entirety and the conviction can be held only against those accused, who have specifically and categorically been named in the statement of the injured. The injured PW2 RK Yadav in his statement named as many as fourteen accused persons, who are- (1) Manoj Narayan Aggarwal (2) Krishan Pal Singh Tomar (3) Rajwansi Yadav (4) Liyakat (5) Firoz (6) Ravindar Pal Singh (7) Man Singh (8) Karu (9) Nar Singh (10) Vinay Kumar Saxena @ Kukki (11) Jagannath (12) Ashok Aggarwal (13) PS Rawat and (14) Shiv Kumar. Out of

these - 14 - accused, except the accused Liyakat, Firoz, Karu and Shiv Kumar, their names have also been corroborated in the statement of complainant, who is Meenakshi (PW1) and even four accused persons i.e. Manoj Narayan Aggarwal, Krishanpal Singh Tomar, Rajwansi Yadav and Vinay Kumar Saxena @ Kukki have also been named in the FIR. Even the injured also taken the name of Ashok Aggarwal (who died during trial) and Jagannath Fitter and Prem Singh Rawat, however they are now died. As such, after considering the entire factual position of the case and the other circumstances of the case, I am of the view that the accused Liyakat, Firoz, Karu and Shiv Kumar are liable to be given the benefit of doubt, while the rest of the accused, who have specifically been named, are liable to be convicted.

21. A criminal misc. appln. No. 907/2010 has been filed on behalf of the complainant Ms. Meenakshi Aggarwal and the Appellant/accused Manoj Narain Aggarwal in CRLA No. 213/2003, wherein the request for compounding of offence has been made and conviction and sentence of the Appellant has been prayed to be set aside. On a bare perusal of the application, the same needs to be rejected summarily inasmuch as this case is of the offence punishable u/s 324 IPC. The Table for compounding of offence has been provided u/s 320 Code of Criminal Procedure wherein in Sub-section (2) of Section 320, it has been specifically and categorically stated that the person by whom the offence may be compounded and as per the said Table, the offence u/s 324 IPC can be compounded only and only by the person to whom the hurt is caused. In the instant case, the injured person is PW2 Radha Krishan Yadav, however no compounding or compromise application has been filed on his behalf. Since the basic necessity of compounding the offence i.e. Section 324 IPC has not been made, as such, the compounding application No. 907/2010 deserves to be rejected and is accordingly rejected outrightly.

22. Thus, in view of the above-said facts and circumstances of the case, it is proved:

A. That the accused persons i.e. Manoj Narayan Aggarwal, Krishan Pal Singh Tomar, Rajwansi Yadav, Ravindar Pal Singh, Man Singh, Nar Singh and Vinay Kumar Saxena @ Kukki have formed an unlawful assembly thereby used force or violence by breaking the windows, boundary, Jeep of the Farm, in prosecution of the common object of taking illegal possession over the property in dispute i.e. Parag Farm, and therefore, have committed an offence punishable u/s 147 IPC and they are liable to be convicted.

B. That the accused Manoj Narayan Aggarwal, being armed with Danda, accused Krishan Pal Tomar, being armed with a KANTA (a sharp edged weapon), caused injuries to injured Radha Krishan Yadav while the accused Vinay @ Kukki, who was armed with Tamancha, shot two fires, however fortunately no one was injured, and as such, they have committed Rioting, being armed with deadly weapons i.e. Dandas and KANTA and Tamancha, as such the offence punishable u/s 148 IPC is made out against these accused persons and they are liable to be

convicted.

C. That each of the accused i.e. Manoj Narayan Aggarwal, Krishan Pal Singh Tomar, Rajwansi Yadav, Ravindar Pal Singh, Man Singh, Nar Singh and Vinay Kumar Saxena @ Kukki, knowingly and with a common object, formed an unlawful assembly, thereby voluntarily caused hurt to injured Radha Krishan Yadav by dangerous weapons/means i.e. Dandas and KANTAS (a sharp edged weapon), and used these weapons which likely to cause death of injured, therefore, the offence punishable u/s 324/149 IPC is clearly made out against each of these accused and they are accordingly liable to be convicted.

D. That each of the accused i.e. Manoj Narayan Aggarwal, Krishan Pal Singh Tomar, Rajwansi Yadav, Ravindar Pal Singh, Man Singh, Nar Singh and Vinay Kumar Saxena @ Kukki, knowingly formed an unlawful assembly, whereby each of them committed mischief and thereby caused loss or damage to the complainant for much more than fifty rupees, and as such, the offence punishable u/s 427/149 IPC is also made out against each of these accused and they are accordingly convicted.

23. For the reasons as recorded above, the Government Appeal No. 27/2010 preferred by the State is partly allowed. The conviction and sentence of the concerned accused is as follows:

A. Each of the accused/Respondents Manoj Narayan Aggarwal, Krishan Pal Singh Tomar, Rajwansi Yadav, Ravindar Pal Singh, Man Singh, Nar Singh and Vinay Kumar Saxena @ Kukki, is held guilty for the offence punishable u/s 147 IPC and each of them is sentenced to one year's R.I.

B. Each of the accused/Respondents Manoj Narayan Aggarwal, Krishan Pal Tomar, Vinay @ Kukki, is held guilty for the offence punishable u/s 148 IPC and each of them is sentenced to further one year's R.I.

C. Each of the accused/Respondents i.e. Manoj Narayan Aggarwal, Krishan Pal Singh Tomar, Rajwansi Yadav, Ravindar Pal Singh, Man Singh, Nar Singh and Vinay Kumar Saxena @ Kukki, is further held guilty for the offence punishable u/s 324 r/w Section 149 IPC and each of them is sentenced to two year's R.I. Needless to say that the accused/Respondent Manoj Narayan Aggarwal has also been held guilty by the trial court u/s 324 IPC and the judgment passed by the trial court is upheld to this extent only and the appeal preferred by him i.e. CRLA No. 213/2003 is liable to be dismissed accordingly.

D. Each of the accused/Respondents i.e. Manoj Narayan Aggarwal, Krishan Pal Singh Tomar, Rajwansi Yadav, Ravindar Pal Singh, Man Singh, Nar Singh and Vinay Kumar Saxena @ Kukki, is further held guilty for the offence punishable u/s 427 r/w Section 149 IPC and each of them is sentenced to further six months' R.I.

E. All the sentences of all the accused shall run concurrently.

24. Government Appeal No. 27/2010 is partly allowed to the above extent. Consequently, the criminal appeal No. 213/2003 preferred by the Appellant-Manoj Narayan Aggarwal is dismissed accordingly. Judgment and order passed by the trial court is modified accordingly.

25. Let the convicted and sentenced accused/Respondents i.e. Manoj Narayan Aggarwal, Krishan Pal Singh Tomar, Rajwansi Yadav, Ravindar Pal Singh, Man Singh, Nar Singh and Vinay Kumar Saxena @ Kukki be taken into custody forthwith to serve out the sentence as awarded each of them.

26. A copy of this order along with the lower court record be sent back for compliance forthwith.