

(2015) 07 RAJ CK 0139

In the Rajasthan High Court

Case No : Criminal Appeal Nos. 7/2011 and 906 of 2010

Mohammed Ilias and Others

APPELLANT

Vs

The State of Rajasthan

RESPONDENT

Date of Decision : 21-07-2015

Acts Referred:

Arms Act, 1959 — Section 25, 4

Criminal Procedure Code, 1973 (CrPC) — Section 313, 428

Penal Code, 1860 (IPC) — Section 147, 148, 149, 302, 307

Citation : (2015) 07 RAJ CK 0139

Hon'ble Judges : Kanwaljit Singh Ahluwalia, J; Banwari Lal Sharma, J

Bench : Division Bench

Advocate : Biri Singh Sinsinwar, Senior Counsel and Rajesh Choudhary, for the Appellant; N.S. Dhakad, Public Prosecutor, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Kanwaljit Singh Ahluwalia, J—14th October, 2007 was celebrated as festival of Eid. As per prosecution, on the said date, ten accused namely Mohammed Ilias S/o. Abdul Gani, Mohammed Yunus and Firoj both sons of Abdul Hakim, Mohassin S/o. Usman Khan, Abdul Rauf and Taiyab Ali both sons of Lukman Ali, Abdul Karim S/o. Usman Gani, Muzzafar @ Gujja @ Muzzafar Rahman S/o. Abdul Gani, Usman Gani S/o. Abdul Gaffur and Sirajuddin S/o. Rustam Ali Gahlot, all residents of village Ramsar, District Ajmer, constituted an unlawful assembly and came armed with Sword, Farsi, iron rod and lathis. It is the further case of the prosecution that on the said date, the accused Mohammed Ilias caused a solitary blow with knife in the chest of Ilias S/o. Karamat Khan and thereby committed the offence of murder punishable under Section 302 IPC, whereas other remaining accused shared common object with him, to cause murder of Ilias S/o. Karamat Khan.

2. Further, in the occurrence, Vakil (P.W.1), Karamat Khan (P.W.5), Farooq (P.W.6), Shakil Khan (P.W.7), Yusuf Khan (P.W.8) and Firoj (P.W.9) suffered

simple injuries falling within the ambit of offences punishable under Section 324 and 323 IPC read with Section 149 IPC.

3. The court of Additional Sessions Judge (Fast Track) No. 1, Ajmer, vide impugned judgment dated 24.11.2010, held the accused appellant Mohammed Ilias S/o. Abdul Gani guilty of offence under Sections 302, 148, 323/149, 324/149. The accused appellants, namely Mohammed Yunus, Firoj, Mohassin, Abdul Rauf, Abdul Karim, Muzzafar @ Gujja @ Muzzafar Rahman were convicted for the offences under Sections 302/149, 148, 323/149 and 324/149 IPC. The accused appellants namely Taiyab Ali, Usman Gani and Sirajuddin were convicted for the offences under Sections 302/149, 148, 323/149, 324/149 IPC and 4/25 of Arms Act.

4. Having convicted the appellants for the aforesaid offences, the trial court vide a separate order of even date sentenced them as under:--

Accused Mohammed Ilias:

Accused Mohammed Yunus, Firoj, Mohsin, Abdul Rauf, Abdul Karim, Muzzafar @ Gujja @ Muzzafar Rahman each:

Accused Taiyab Ali, Usman Ali, Sirajuddin each:

5. Aggrieved against their conviction and sentence, Mohammed Ilias, Mohammed Yunus and Muzzafar @ Gujja @ Muzzafar Rahman have filed D.B. Criminal Appeal No. 7/2011, whereas, remaining seven accused, namely Firoj, Mohassin, Abdul Rauf, Abdul Karim, Taiyab Ali, Usman Gani and Sirajuddin have preferred D.B. Criminal Appeal No. 906/2010 to assail their conviction and sentence.

Since in both the appeals, common judgment has been assailed, we shall decide both the appeals together.

6. Vakil (P.W.1) on 14.10.2007, at 2:25 PM, presented a written report (Exhibit-P/1) before ASI, Maniram Yadav (P.W.17), who was then posted as In-charge of Police Station Nasirabad Sadar.

7. Maniram Yadav (P.W.17) in the court stated that on 14.10.2007, he received an information that a fight had taken place and injured have been admitted in the hospital. On receipt of information on wireless, he proceeded to the hospital at Nasirabad, where Vakil (P.W.1) had presented the written report (Exhibit-P/1), on the basis of which a formal FIR (Exhibit-P/36) bearing No. 232/2007 was registered at Police Station Sadar, Ajmer for the offences under Sections 147, 148, 149, 323, 341, 307 and 302 IPC.

8. The written report (Exhibit-P/1) on the basis of which formal FIR (Exhibit-P/36) was registered, when translated into English reads as under:--

"To

SHO, Police Station, Nasirabad Sadar Ajmer

Subject: For registration of case.

Sir,

It is humbly stated that today on 14.10.2007, at about 11:30 AM, after performing morning Namaz of Eid, I along with my family members namely Firoj S/o. Badrudin, Yusuf S/o. Kamrudeen, Farooq S/o. Badrudin and my brother Ilias, we all five persons for extending greetings of Eid to the relatives, had gone to Badi Halai Jumma Masjid. When we reached in the market, in front of the shop of Indra Chand Choudhary, the residents of our village namely Usman S/o. Gaffur Khan Khinchi, Yusuf S/o. Abdul Hakim, Ilias S/o. Abdul Gani, Muzzafar @ Gujja S/o. Abdul Gani, Firoj S/o. Hakum, Mohassin S/o. Usman, Taiyab S/o. Lukman, Siraj S/o. Rustam Gehlot, Rauf S/o. Lukman, Karim S/o. Usman, armed with sword, Farsi, knife, iron rod and other lethal weapons came with a common intention. Muzzafar S/o. Gani and Yunus S/o. Abdul Hakim caught hold of hands of Ilias and made him fall on the ground and Ilias S/o. Abdul Gani gave one blow from knife to Ilias S/o. Karamat due to which he was seriously injured. Siraj S/o. Rustam Gehlot caused sword blow in the head of Yusuf S/o. Kamrudin, Firoj S/o. Abdul Hakim gave an iron rod blow on the head of Yusuf S/o. Kamruddin due to which Yusuf became unconscious and fell at the spot. Taiyab S/o. Lukman gave a sword blow on the head of Firoj S/o. Badruddin, Usman gave Farsi blow on the hand of Firoj S/o. Badruddin. We raised noise to save ourselves. Hearing our noise, Karamat, Nazir, Saddique, Farooq came forward to save us. The said persons were also caused injuries due to which Farooq, Karamat, Vakil and Shakil also suffered injuries. Ilias S/o. Karamat, Firoj S/o. Badruddin, Yusuf S/o. Kamrudin due to sufferance of serious injuries in a private vehicle were brought to Nasirabad Hospital for treatment. Durign treatment, Ilias S/o. Karamat has died and Firoj and Yusuf due to receipt of grievous injuries have been referred to Ajmer. The report is presented and legal action be taken.

Date: 14.10.07

Sd/-

Vakil S/o. Karamat Khan, b/c Musalman, R/o Ramsar."

9. From the perusal of the above written report, it is revealed that in the occurrence, the first blow was caused by Mohammed Ilias with a knife on the person of the deceased Ilias S/o. Karamat. The said blow had proved fatal, leading to the death of Ilias S/o. Karamat Khan. Subsequent to Mohammed Ilias, other accused have caused injuries.

10. Mr. Biri Singh Sinsinwar, Senior Counsel assisted by Mr. Rajesh Choudhary and Mr. Pankaj Sharma appearing for the appellants, Mr. N.S. Dhakad, the learned Public Prosecutor and Mr. Ashvin Garg the learned counsel for the complainant have fairly stated that besides injuries suffered by Vakil (P.W.1), Karamat Khan (P.W.5), Farooq (P.W.6), Shakil Khan (P.W.7), Yusuf Khan (P.W.8) and Firoj (P.W.9), in the occurrence accused Abdul Rauf, Mohammed Yunus,

Mohammed Ilias, Firoj Khan, Sirajuddin and Mohassin had also suffered injuries.

11. Dr. D.K. Sharma (P.W.15) on 14.10.2007 conducted autopsy on the dead body of Ilias S/o. Karamat and as per Post Mortem Report (Exhibit-P/34) had noted the following injury on the person of Ilias:--\\

"Ante mortem Injuries-

Stab wound 1.5cm x 0.5cm, clean cut edges and sharp angles at the two extremities. On medial and lower to left nipple on chest. On dissection direction of the wound towards upwards and left side. Left pleura lacerated 3cm in linear. Left thoracic cavity full of blood. On further dissection laceration of lung 3cm long was present anteriorly on middle lobe of left lung. Laceration of pericardium is seen in the area of left atrium. On further dissection laceration of left atrium was seen which was of 0.5cm long."

As per opinion of Dr. D.K. Sharma (P.W.15), the cause of death was hemorrhagic shock due to ante-mortem stab injury to heart and lung, which was sufficient to cause death in the ordinary course of nature.

12. Dr. D.K. Sharma (P.W.15) on 14.10.2007, also examined Vakil (P.W.1) and as per Injury Report (Exhibit-P/28) following injuries were noted on the person of Vakil (P.W.1):--

"Incised wound 1cm x 0.2cm, muscle deep, base of right little finger on palmer surface, simple, sharp.

C/o Pain abdomen. No external injury visible."

Injury No. 1 is on the little finger of right hand, whereas Injury No. 2 got no external mark and is complain of pain only.

13. On the said date and time, Dr. D.K. Sharma (P.W.15) also examined Shakil and as per Injury Report (Exhibit-P/29) he had found following injuries on the person of Shakil:--

"(i) Abrasion, 2cm x 2cm, on left knee, simple, blunt.

(ii) Abrasion, 3cm x 2cm, on left knee, 1/2 cm above injury No. 1, simple, blunt.

(iii) Abrasion 2cm x 2cm, on left knee 1cm below injury No. 1, simple, blunt.

(iv) Abrasion, 3cm x 2cm, just medial to Injury No. 3, simple, blunt."

14. On 14.10.2007 at 2:55 PM, Dr. D.K. Sharma (P.W.15) examined Karamat and vide Injury Report (Exhibit-P/30) following injury was found on his person:--

"Lacerated wound, 1cm x 0.5cm, muscle deep, on occipital region on scalp, simple, blunt."

15. On the said date, Dr. D.K. Sharma (P.W.15) examined Farooq and as per Injury Report (Exhibit-P/31) had found following injuries on the person of

Farooq:--

"Lacerated wound, 1cm x 0.5cm, muscle deep, on forehead mid-line, middle simple, blunt."

16. This doctor (P.W.15) also examined Yusuf and as per Injury Report (Exhibit-P/32) had found following injury on the person of Yusuf:--

"Incised wound, 15cm x 1cm, bone deep, on scalp right temporal parietal region, sharp."

17. On 14.10.2007 at 2:30 PM, Dr. D.K. Sharma (P.W.15) had examined Firoj and as per Injury Report (Exhibit-P/33) had found following injuries:--

"(i) Lacerated wound, 6cm x 0.5cm, bone deep, on scalp right fronto parietal region.

(ii) Lacerated wound, 5cm x 0.5cm, bone deep, on scalp left parietal region.

(iii) Lacerated wound, 1cm x 0.5cm, muscle deep, on right forearm, outer surface.

(iv) Abrasion, 2cm x 1cm, on right shoulder.

(v) Abrasion, 1cm x 1cm, on right shoulder 1cm medial to injury No. 4.

(vi) Abrasion, 2cm x 0.5cm, on right arm lower part inner surface."

18. Dr. D.K. Sharma (P.W.15) in cross-examination stated that Shakil, Karamat and Farooq can suffer injuries due to fall. This witness further stated that on 14.10.2007, vide Injury Report (Exhibit-D/12) he had examined the accused appellant Abdul Rauf and found following injuries on his person:--

"(i) Abrasion, 0.5cm x 0.5cm, on left wrist (dorsal surface), simple, blunt.

(ii) Abrasion, 2cm x 0.2cm, linear, on middle of back obliquely, simple, blunt.

C/o pain on right middle finger R/o External injury visible."

19. On the same date, at 8:30 PM, vide Injury Report (Exhibit-D/13) Dr. Sharma (P.W.15) examined the accused Mohammed Yunus and had noted the following injuries on his person:--

"(i) Incised wound, 5cm x 0.5cm, bone deep, on scalp right parietal region, simple, blunt.

(ii) Abrasion, 1cm x 1cm, on face lateral side of right eyebrow, simple, blunt.

(iii) Abrasion, 1cm x 0.5cm, on left ear lobule, simple, blunt.

(iv) Abrasion, 3cm x 0.5cm, on right shoulder, simple, blunt.

(v) Abrasion, 15cm x 0.2cm, on anteromedial side of upper part of right thigh, simple, blunt."

20. On the same night, at 9:10 PM, he had examined the accused Mohammed Ilias and vide Injury Report (Exhibit-D/14) he had found following injuries on his person:--

"(i) Abrasion, 3cm x 0.5cm, on middle of right leg anteriorly on skin, simple, blunt.

(ii) Swelling, 4cm x 3cm, on dorsum surface of right hand lateral side, simple, blunt.

(iii) Swelling, 2cm x 2cm, on scalp left side on occipital region, simple, blunt."

21. On 14.10.2007, at 9:00 PM, Dr. D.K. Sharma (P.W.15) also examined the accused Firoj Khan and vide Injury Report (Exhibit-D/15) had found the following injuries on the person of Firoj Khan:--

"(i) Abrasion, 0.5cm x 0.5cm, on dorsum of right hand base of right index finger, simple, blunt.

(ii) Abrasion linear, 10cm x 0.2cm, on lateral side of right buttock, simple, blunt.

(iii) Swelling, 5cm x 3cm, On right forearm outer surface near elbow, simple, blunt.

(iv) Swelling, 6cm x 3cm, on lower part of right arm outer surface, simple, blunt."

22. Dr. D.K. Sharma (P.W.15) on 14.10.2007, at 9:20 PM also examined the accused Sirajuddin and as per Injury Report (Exhibit-D/16) following injuries were found on the person of Sirajuddin:--

"(i) Lacerated wound, 4cm x 0.5cm, muscle deep, on scalp right parietal region, simple, blunt.

(ii) Abrasion linear, 6cm x 0.2cm, on posterior surface of left shoulder, simple, blunt.

(iii) Abrasion, 0.5cm x 0.5cm, on middle part of right middle finger dorsum of surface, simple, blunt."

23. Dr. D.K. Sharma (P.W.15) on 14.10.2007 at 8:40 PM, also examined the accused Mohsin and as per Injury Report (Exhibit-D/17) following injuries were found on the person of Mohsin:--

"(i) Abrasion linear, 12cm x 0.2cm, on left shoulder with upper part of left arm, simple, blunt.

(ii) Abrasion, 1cm x 1cm, on middle of left forearm dorsal surface, simple, blunt."

24. A perusal of the evidence of Dr. D.K. Sharma (P.W.15) reveals that the deceased Ilias had suffered one stab injury on the chest, whereas Vakil (P.W.1) had suffered two injuries, one injury on the little finger of right hand and injury No. 2 had no external mark, but was complain of pain. Shakil Khan (P.W.7) had

suffered four abrasions. Karamat Khan (P.W.5) had suffered one simple injury on the head and Farooq (P.W.6) had suffered one blunt injury on the forehead, whereas Yusuf Khan (P.W.8) has suffered one incised injury on the head, which was declared simple, Firoj (P.W.9) had suffered six injuries, three were lacerated injuries, out of which two were on head and remaining three were the abrasions.

25. Whereas, accused Abdul Rauf had suffered two simple abrasions, Mohammed Yunis had suffered five injuries out of which one injury was incised injury on the head, Mohammed Ilias had also suffered three injuries, out of which one injury was on the head which is simple, Firoj Khan had suffered four injuries out of which two were abrasions and two were swelling, Sirajuddin had suffered three injuries out of which one was lacerated injury on the parietal region and Mohassin had suffered two abrasions.

26. Thus, except one stab injury caused to the deceased Ilias by the accused Mohammed Ilias son of Abdul Gani, six persons from the side of complainant party and six accused had suffered almost similar injuries, which have been declared simple in nature. Out of six injured from the side of complainant, Karamat Khan (P.W.5), Farooq (P.W.6) and Firoj (P.W.9) had suffered simple injuries on the head, whereas, out of six injured from the side of accused, Mohammed Yunus, Mohammed Ilias and Sirajuddin had suffered simple injuries on the head.

27. Vakil (P.W.1) the complainant, in the court deposed that he knew all the accused. On 14.10.2007, at about 11:15 AM, he along with his younger brother Ilias, Yusuf, Firoj and one another person were returning after extending greetings to their relatives and when they reached in the Sadar market, opposite the shop of Inder Chand, the accused came armed with weapons. His younger brother Ilias was encircled. Yunus and Muzzafar caught hold of the hands of Ilias and Mohammed Ilias S/o. Abdul Gani gave a blow of knife in his chest. Thereafter, Siraj S/o. Rustam caused injury with sword on the head of Yusuf, Firoj S/o. Abdul Hakim caused a blow with iron rod on the head of Yusuf. Yusuf became unconscious and fell on the spot. Usman S/o. Abdul Gaffar caused an injury with spear from blunt side to Firoj S/o. Badruddin on his hand, Taiyab Ali S/o. Lukman caused an injury from the reverse side of sword to Firoj. Mohsin caused an injury with lathi on the head of Farooq. Rauf and Abdul Karim caused injuries with lathi on the foot of Shakil. Karamat, Farooq, Saddique and Nazir came to intervene and they were also caused injuries. It has been further stated by the witness that Usman was armed with Farsi, Siraj was armed with sword, Taiyab Ali was armed with sword, Firoj was armed with iron rod and Ilias was having knife, remaining accused were armed with lathis.

28. We may notice here that this witness has stated in his testimony that Usman caused an injury from reverse side of spear to Firoj, whereas Taiyab Ali has caused injury to Firoj from reverse side of sword. Therefore, Usman and Taiyab Ali who were armed with Farsi and sword have used the said weapons from its blunt side. All injured witnesses namely Vakil (P.W.1), Karamat Khan (P.W.5),

Farooq (P.W.6), Shakil Khan (P.W.7), Yusuf Khan (P.W.8) and Firoj (P.W.9) have given the same sequence of the occurrence. They are unanimous that Mohammed Ilias S/o. Abdul Gani caused the first stab injury with a knife on the chest of the deceased Ilias S/o. Karamat. Thereafter, other accused caused injuries to other witnesses.

29. It is contended by Mr. Biri Singh Sinsinwar, Senior Counsel and Mr. Pankaj Sharma that Mohammed Yunus accused appellant has suffered incised wound on the head, accused appellant Mohammed Ilias and Sirajuddin have suffered injuries on the head and thus, by not explaining the injuries on the person of six accused, the complainant party has suppressed the origin and genesis of the occurrence.

30. The learned counsel for the appellants have relied upon the case of Lakshmi Singh and Others Vs. State of Bihar, AIR 1976 SC 2263 : (1976) CriLJ 1736 : (1976) 4 SCC 394 : (1976) SCC(Cri) 671 , in which the Hon"ble Apex Court has held as under:--

"This Court clearly pointed out that where the prosecution fails to explain the injuries on the accused, two results follow: (1) that the evidence of the prosecution witnesses is untrue: and (2) that the injuries probabilise the plea taken by the appellants. The High Court in the present case has not correctly applied the principles laid down by this Court in the decision referred to above. In some of the recent cases, the same principle was laid down. In Puran Singh v. The State of Punjab Criminal Appeal No. 266 of 1971 decided on April 25, 1975 : which was also a murder case, this Court, while following an earlier case, observed as follows:

In State of Gujarat v. Bai Fatima Criminal Appeal No. 67 of 1971 decided on March 19, 1975 :) one of us (Untwalia, J., speaking for the Court, observed as follows:

In a situation like this when the prosecution fails to explain the injuries on the person of an accused, depending on the facts of each case, any of the three results may follow:

(1) That the accused had inflicted the injuries on the members of the prosecution party in exercise of the right of self defence.

(2) It makes the prosecution version of the occurrence doubtful and the charge against the accused cannot be held to have been proved beyond reasonable doubt.

(3) It does not affect the prosecution case at all.

The facts of the present case clearly fall within the four corners of either of the first two principles laid down by this judgment. In the instant case, either the accused were fully justified in causing the death of the deceased and were protected by the right of private defence or that if the prosecution does not

explain the injuries on the person of the deceased the entire prosecution case is doubtful and the genesis of the occurrence is shrouded in deep mystery, which is sufficient to demolish the entire prosecution case.

It seems to us that in a murder case, the non-explanation of the injuries sustained by the accused at about the time of the occurrence or in the course of altercation is a very important circumstance from which the Court can draw the following inferences:

(1) That the prosecution has suppressed the genesis and the origin of the occurrence and has thus not presented the true version:

(2) that the witnesses who have denied the presence of the injuries on the person of the accused are lying on a most material point and therefore their evidence is unreliable;

(3) that in case there is a defence version which explains the injuries on the person of the accused it is rendered probable so as to throw doubt on the prosecution case."

31. It is true that accused in their statements recorded under Section 313 Cr.P.C. had taken a plea that the complainant party armed with weapons attacked them and caused them serious injuries and they have lodged a cross case against the complainant party. No accused had taken a specific plea that in self-defence they have also caused injuries to the complainant party. Thus, it is apparent that both the sides are not coming to the court with clean hands and have minimized their role, while exaggerating the role of other party. In fact, the complainant in the FIR has not admitted causing injuries to the accused nor accused in their statements recorded under Section 313 Cr.P.C. have specifically stated that they also caused injuries to the complainant party.

32. In the present case, the occurrence has taken place on the festival of Eid in a crowded market. Except the solitary injury on the person of Ilias S/o. Karamat, all other injuries on the person of six witnesses and six accused are simple in nature. There has been no repetition of blow by any accused, so far the deceased Ilias is concerned. The nature of injuries on the person of witnesses belonging to the complainant party and the accused are not of serious nature. All the six witnesses and six accused had suffered simple injuries. Thus, it is apparent that only Mohammed Ilias had intention to cause murder. The first blow was caused by him. Thereafter, no accused has caused any injury to the deceased. Thereafter, though the accused were allegedly armed with lethal weapons, two of the accused Usman and Taiyab Ali have used incised weapons from the reverse side. They have caused simple injuries to the witnesses. Had other accused except Mohammed Ilias shared the common intention of causing murder, they would have caused more serious harm or injuries in the occurrence. It seems that when the parties came in front of each other, Mohammed Ilias harbouring intention to cause murder caused a solitary blow with knife in the chest of Ilias, the deceased.

33. The story that Muzzafar and Yunus caught hold of hands of the deceased Ilias and made him fall on the ground seems to us an exaggeration. Had Muzzafar and Yunus caught hold hands of the deceased Ilias, and made him fall on the ground, it would be improbable for accused appellant Mohammed Ilias to cause injury to the deceased Ilias while he was lying on the ground with a knife, that too in the chest especially when there were many people around Ilias, who would have intervened and prevented Mohammed Ilias to cause injury on the chest of Ilias, the deceased.

34. To us, it is a clear case of hit and run. Mohammed Ilias first caused knife blow in the chest of Ilias and thereafter, parties in a melee came to blows and caused injuries to each other. It is settled legal position that once the first fatal blow is caused and subsequently, accused do not cause injury to the deceased or thereafter no grievous or dangerous to life injury is caused to anybody, it cannot be said that for subsequent act of causing simple injuries, remaining accused shared common object with the accused who had caused fatal injury.

35. In the present case, the occurrence had taken place on 14.10.2007 at 11:30 AM and the written report (Exhibit-P/1) was presented by Vakil (P.W.1) before ASI, Maniram Yadav (P.W.17) on 14.10.2007 at 2:25 PM. The case was registered at Police Station Sadar, Nasirabad at 5:15 PM. Thus, to us, there was enough time for consultations and deliberations to inflate the number of accused, especially when time of reaching of special report has not been proved on record.

36. To us, the story that two of the accused Muzzafar and Yunus caught hold of hands of Ilias is not only improbable but has been introduced to inflate number of accused. We discard the version of the prosecution witnesses to the extent that these two accused have caught hold of the hands of Ilias. We hold that causing of solitary fatal injury which was first blow caused in occurrence, was an individual act of Mohammed Ilias thus, he is solely responsible for offence of murder punishable under Section 302 IPC and qua other accused appellants Section 149 IPC is not attracted as the remaining accused had not shared the common object with Mohammed Ilias to commit the offence of murder. Once Mohammed Ilias had caused fatal injury, thereafter, both the parties came to blows and caused injuries to each other, shall make each accused responsible for his individual act or role as it is a case of individual liability.

37. Consequently, as a result of above discussion, we affirm the conviction and sentence of accused Mohammed Ilias for the offence under Section 302 IPC and acquit him for remaining offences under Section 148, 323/149 and 324/149 IPC.

38. Vakil (P.W.1) had suffered one incised wound on the base of right little finger. Vakil in his deposition in court has attributed this injury to the accused Taiyab Ali. Thus, we hold the accused Taiyab Ali individually liable for the offence under Section 324 IPC for causing injury to Vakil (P.W.1).

39. Shakil Khan (P.W.7) had suffered four abrasions and all the injuries being

simple in nature were caused by blunt weapon. Shakil Khan in the court has attributed these injuries to accused Abdul Rauf and Abdul Karim. We hold Abdul Rauf and Abdul Karim guilty of offence under Section 323 IPC for causing simple blunt injuries to Shakil Khan.

40. Karamat Khan (P.W.5) has suffered one simple injury on the head. Karamat Khan in the court stated that Abdul Karim caused injury with lathi on his head. So far injury caused to Karamat Khan (P.W.5) is concerned we hold the accused Abdul Karim guilty of offence under Section 323 IPC.

41. Farooq (P.W.6) had suffered one simple blunt injury in the occurrence. Farooq in the court attributed this injury to the accused Mohsin. We hold the accused Mohsin guilty of offence under Section 323 IPC.

42. Yusuf Khan (P.W.8) had suffered one incised simple injury on the head. Yusuf Khan in the court has attributed this injury to the accused Sirajuddin. We hold the accused Sirajuddin guilty of offence under Section 324 IPC.

43. Firoj (P.W.9) has suffered six blunt injuries. In the court Firoj attributed these injuries to Taiyab Ali, Usman, Firoj, Abdul Karim, Abdul Rauf and Mohsin. Thus, for causing injuries to Firoj, we hold Taiyab Ali, Usman, Firoj, Abdul Karim, Abdul Rauf and Mohassin guilty of offence under Section 323 IPC.

44. Taiyab Ali for causing incised injury to Vakil (P.W.1) is responsible for offence under Section 324 IPC and for causing another injury from blunt side of weapon to Firoj (P.W.9), he is held guilty of offence under Section 323 IPC.

45. Abdul Rauf has caused simple blunt injury to Shakil Khan. He is guilty of offence under Section 323 IPC.

46. Abdul Karim has caused simple blunt injury to Firoj (P.W.9), Shakil Khan (P.W.7) and Karamat Khan (P.W.5). He is held guilty of offence under Section 323 IPC on three counts.

47. Mohassin has caused simple blunt injury to Farooq (P.W.6) and Firoj (P.W.9). He is held guilty of offence under Section 323 IPC on two counts.

48. Sirajjudin has caused simple incised injury to Yusuf Khan (P.W.8). He is held guilty of offence under Section 324 IPC.

49. Usman Gani has caused simple blunt injury to Firoj (P.W.9). He is held guilty of offence under Section 324 IPC.

50. Firoj appellant has caused simple blunt injury to Firoj (P.W.9). He is held guilty of offence under Section 323 IPC.

51. Muzzafar @ Gujja @ Muzzafar Rahman S/o. Abdul Gani and Mohammad Yunus have not been attributed any specific injury, therefore, they are acquitted of all the offences.

52. The trial court has awarded sentence of two years for the offence under

Section 323 IPC and sentence of six months for the offence under Section 324 IPC. We maintain the sentence awarded by the trial court qua offence under Sections 324 and 323 IPC. However, we acquit all the accused for the offence punishable under Section 148 IPC.

53. As a result of above discussion, accused Mohammed Ilias is liable for the offence under Section 302 IPC, therefore, he shall undergo life imprisonment, sentence awarded by the trial court and pay a fine of Rs. 10,000/-, in default of payment of fine to further undergo three months R.I. The accused appellant held guilty for offence under Section 324 and 323 IPC shall undergo sentence awarded on these counts.

54. The sentences shall run concurrently and period already undergone during investigation and the trial shall be set off under the proviso to Section 428 Cr.P.C. while computing duration of life imprisonment.

Accordingly, both the appeals stand disposed of.