
(2011) 12 MP CK 0091

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 248 of 2004 and Criminal Appeal No. 273 of 2004

Pappi Baghele and another

APPELLANT

Vs

State of M.P and Santosh and another

RESPONDENT

Date of Decision : 14-12-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 357
Penal Code, 1860 (IPC) — Section 147, 148, 149, 300, 302

Citation : (2012) 2 JLJ 382 : (2012) 1 MPHT 453

Hon'ble Judges : S.K. Gangele, J;G.D. Saxena, J

Bench : Division Bench

Advocate : A.K. Jain,s in Cri.A. No. 248/2004 and Mr. D.R. Sharma,s in Cr.A. No. 273/2004, for the Appellant; Raghvendra Dixit, Public Prosecutor for the Respondent/State in both the Appeals, for the Respondent

Judgement

G.D. Saxena, J.—A challenge has been made by appellants Pappi Baghele and Jagdish @ Thakra while preferring Cri. Appeal No. 248/04 to a judgment of the Trial Court, dated 23rd March, 2004, rendered in Sessions Trial No. 410/02 convicting both the accused, for commission of offence punishable u/s 302, IPC and sentencing them to suffer imprisonment for life with a fine of Rs. 5,000/- and in default to suffer additional imprisonment of one year for committing murder of Kalu @ Aftab Ali. Apart from the above, appellant No. 2-Jagdish @ Thakra also stood convicted for an offence u/s 324 of IPC and sentenced to suffer six months" RI with fine of Rs. 1,000/-and in default to suffer additional imprisonment of one month for causing hurt by means of knife to injured Ahsan Ali. Being aggrieved by the said judgment, another appeal bearing No. 273/04 has been preferred by appellants Santosh and Munna against their conviction for offence u/s 324 of IPC and sentence to six months" R1 with fine of Rs. 1,000/-for causing hurt by means of knife to an injured Ballu @ Shahid Ali with default imprisonment of one month in respect of fine.

2. The facts of the above referred two appeals being similar and identical, both the appeals are heard together and deposed of by this common judgment. For

the sake of clarity and convenience, firstly we shall advert to the facts of the case.

3. As per prosecution case, on 30th June, 2002, at about 11-15 p.m., in night, in front of the house of Ahsan Ali situated at Transport Nagar, Bahodapur Gwalior, all the accused, namely, Pappi Baghele, Anand Baghele, Rakesh Kumar Pal, Santosh Baghele, Munna Baghele, Chhotelal Baghele, Deepak Baghele and Jagdish Baghele gathered there having armed with deadly weapons and formed an unlawful assembly. It is alleged that in prosecution of their common object to commit murder of Kalu @ Aftab Ali and further to cause hurts to others, they killed Kalu @ Aftab and also inflicted injuries to injured, namely, Ahsan Ali and Ballu @ Shahid Ali by means of knives held by them. It is alleged that on hearing hue and cry, the injured Ahsan Ali saw from the balcony of his house that all accused had surrounded his uncle's son Kalu @ Aftab Ali and were causing hurt to him. He immediately rushed to the spot. When he tried to rescue his brother, accused Jagdish Thakra assaulted him with a knife causing thereby injuries on his abdomen and heck. He fell down and cried. Then his brother Tedha Ballu @ Shair Ali came there but he was assaulted by accused Munna and Santosh with knives causing injuries on his abdomen, chest, left eye and over forehead. The report of the incident was lodged by injured-complainant Ahsan Ali at Police Station, Bahodapur. Thereafter, all the injured were sent for medical examination. Since Kalu @ Aftab Ali succumbed to injuries, his dead-body was sent for autopsy. After investigation the charge-sheet was filed before the Court having jurisdiction. On committal, the trial was commenced. After trial, the learned Additional Sessions Judge convicted and sentenced the appellants as mentioned before. However, the Trial Judge by the same judgment acquitted other co-accused namely, Anand, Rakesh, Chhotelal, Deepak and Devi of the alleged charges.

4. The contentions of the learned Counsel appearing for the appellants/ accused in both the appeals are that the impugned judgment of conviction and sentence passed by the Trial Judge is against the facts, evidence and settled principles of law, applicable to the case, hence, same is liable to be set aside. It is contended that the Trial Judge has erred in believing the version of all the injured eye-witnesses and ignored the fact that they were related to each other and were having inimical relations with the accused. No independent witness has come forward to support the prosecution story. The ocular evidence and the medical evidence are contradictory and inconsistent with each other. Apart from the above, the Investigating Officer, namely, O.P. Sagoria (P.W. 11), categorically stated that the counter ITR was lodged from the accused-side against the complainant party and after investigation, the charge-sheet was also filed against the complainant and other prosecution witnesses and criminal case against them was also in progress. On the basis of above arguments, it is prayed that by allowing the appeals, the present accused/appellants be acquitted of the alleged offence.

5. Per contra, the learned Public Prosecutor appearing for the State, supported the impugned judgment of conviction and sentence and requested to dismiss both the appeals. It is submitted by him that the prosecution by adducing cogent and reliable evidence has succeeded to prove the case against the accused beyond a shadow of suspicion and the learned Trial Judge has rightly found the accused/ appellants guilty of the alleged offence, which findings cannot be termed to be illegal or improper.

6. Heard the learned Counsel for the parties and also perused the evidence on-record.

7. Ahsan Ali (P.W. 1) states that on 30th June, 2002 at about 11.30 p.m., in night, he was sitting in the room of his first floor at Chhutmal Ki Bazariya, Gwalior. On hearing noise of scuffling from the spot, he saw from his balcony of the room that the quarrel was taking place in between accused and his uncle's son Kalu. Then he came down and found that many persons had surrounded his brother. When he tried to rescue him, accused Jagdish @ Thakra assaulted with a knife on his abdomen and neck. On his cry, his brother Ballu @ Shahir Ali reached there who tried to rescue them, but before coming to him, he was caught hold by the accused Munna and Santosh, who caused injuries to him with knives. Thereafter, all accused assaulted Kalu by knife and Katar. On his cry for help Rashid, Rasid and his father reached the spot but by that time, the accused persons left the place. His father and others took him and other injured to Indarganj police Station where he lodged the report. Thereafter they were shifted to Hospital for treatment. In cross-examination, he denied the suggestions that any report was lodged by accused Chhotlall regarding the same incident against the complainant party. He stated that all the accused are the members belonged to family of Chhotelal and he himself and other injured and deceased belonged to one family.

8. Shahid Ali @ Indu (P.W. 2) states that on 30th June, 2002 at about 11.25 p.m., in night, he and deceased Kalu @ Aftab Ali were proceeding after taking feast from the house of Shubhan Ali to their houses. On the way near to their houses, accused Jagdish @ Thakra and Pappi met them. They abused Kalu @ Aftab Ali and caused injuries by means of knife to him. As he cried for help, Ahsan Ali reached the spot. Ahsan Ali also cried for help. Soon thereafter, family members of accused Jagdish Thakra, namely, co-accused Munna, Santosh, Devi, Santosh s/o Lalaram, Anand, Deepak, Rakesh and Chhotelal having armed with knives and Katar, reached on the spot and started causing injuries to Kalu @ Aftab Ali. When Ahsan Ali tried to rescue Kalu, accused Jagdish @ Thakra with intention to kill him, caused injuries on his abdomen and neck. Hearing scrimmage of Ahsan Ali, his brother Sahil Ali came, but he was also assaulted by accused Munna and Santosh resultantly he received grievous injuries. Then, Amzad Ali, Asif Ali, Abid Ali and Rasid Ali reached on the spot and they took the injured to Indarganj Police Station. After lodging the FIR, the injured persons were shifted to the Hospital. In his cross-examination, the witness admitted that

in the same incident, accused Rakesh, Chhotelal and Pappi also received injuries and a criminal case against the complainant party was pending in the Court. Amzad Ali (P.W. 3) also supported the prosecution version.

9. Dr. J.N. Soni (P.W. 4) deposed that while he was posted in the Forensic Department in G.R. Medical College, Gwalior, on 1st July, 2002 at about 9.30 a.m., in the morning, after receiving application (Exh. P-34) from the police and dead body of Aftab Ali @ Kalu s/o Abid Ali, resident of Lohiya Bazar Gwalior through Feran Singh, Constable No. 1830 of Police Station, Indarganj, Gwalior and getting identification about the same by the said Constable and Amzad Ali, uncle of the deceased, he conducted autopsy. He found three contusions, namely, (1) right side of upper lip 2 cm x 1 cm, (2) 2 cm right to angle of mouth (Rt.) laterally 6 cm x 2 cm, (3) upper aspect of right shoulder of size 2 cm x 2 cm and four stab wounds, namely, (1) 12 cm below supra sternal bone 3 cm left to mid line, 3.5 cm x 1 cm, vertical, both ends were sharply cut. (2) stab wound zig-zag on right side of the abdomen just below coastal margin, 8 cm x 3 cm vertical margins and end sharp, 5 cm. Deep in muscles. (3) Stab wound 8 cm left to the upper end of injury No. 5 of size 1.5 cm x 0.5 cm vertical it extends in abdominal cavity and giving cut over the spleen. (4) Stab wound 1 cm below the mid of left last rib anterior 2 cm x 1 cm. obliquely vertical supero laterally, 3 cm deep in muscles. According to the opinion of the doctor, the death of the deceased was due to shock and haemorrhage as a result of thoraco-abdominal injuries, caused by sharp penetrating object which were sufficient to cause his death in the ordinary course of nature. Mode of death was homicidal and its duration was within 6 to 24 hours since the time of examination. The said report is Exh. P-35, written and signed by the witness.

10. Dr. S. Agarkar (P.W. 9) deposed that on 1st July, 2002 while he was posted as Casualty Medical Officer in the J. A. Group of Hospitals at Gwalior, he examined Habib s/o Sajjad Khan, resident of Gendewali Street, Gwalior, who was brought by Constable Mahendra Singh. On his examination of the injured, he found two lacerated wounds, namely, (1) lacerated wound of size 1 1/2 cm. x 1/2 cm x 1/8 cm. over middle of skull (2) lacerated wound of size 1 cm x 1/4 cm x 1/8 cm, over left parietal region of skull and one abrasion of size 1 1/2 cm on right occipital region of skull. The said injuries were caused by hard and blunt object and were simple in nature. It is also mentioned that the injured had consumed the liquor. The said injury report is Exh. P-38, written and signed by him.

11. The witness also examined Shahid Ali s/o Rahman Ali, resident of Lohiya Bazar, Gwalior who was brought by constable Jaiveer Singh of Police Station, Indarganj Gwalior. On examination of the injured, he found one contusion of size 2 cm x 1 cm, over back across lumber spine, caused by hard and blunt object within 24 hours. The said injury was found simply in nature vide report Exh. P-39. The doctor also examined Ahsan Ali s/o Rahamat Ali, resident of Lohiya Bazar, Gwalior who was brought by O.P. Sagoria Inspector and In-charge of the

Police Station, Indarganj and during examination of the injured he found two incised wounds, namely, (1) An incised wound of size 2 1/2 cm x 1/2 cm. 1/2 cm below chin on right side (2) An incised wound of size 2 cm x 1/2 cm x 1/2 cm just below right side of ribs. The blood was oozing from the wound which were caused by sharp edged object within 6 hours. The injured was admitted in the Surgical Ward for treatment. The Medical report is Exh. P-39 on record.

12. O.P. Sagoria (P.W. 11), Inspector and In-charge of the Police Station, Indarganj, Gwalior is the Investigating Officer of the present crime. He deposed that on 30th June, 02 at about 11.30 p.m., in night, he reduced in writing the FIR lodged by Ahsan Ali, vide Exh. P-1 against accused Jagdish @ Thakra and Pappi Baghele and others, which was registered at Crime No. 251/02 for commission of offence under Sections 302, 307, 147, 148 and 149 of IPC. Then, he immediately reached on the spot and started investigation in the matter. The injured were sent by him to the Hospital for examination and treatment. On next day, he prepared the spot map and the seizure memo of the blood stained and simple soil from the earth. Then he proceeded to the Mortuary Home of J.A. Hospital, Gwalior and issued notices to witnesses for preparation of the memo of dead-body of deceased. He sent the dead-body for post-mortem alongwith request to J.A. Hospital. Thereafter, he recorded the case diary statements of the witnesses. On 1st July, 02 he arrested accused Rakesh Pal, Pappi s/o Chhotelal, Anand Baghele, Chhotelal s/o Bhura Baghele vide memo of arrest (Exh. P-11 to Exh. P-14) and recorded the information in relation to the weapons used in the crime by the accused and subsequently seized the weapons of offence vide memos (Exh. P-15 to Exh. P-26). On 4th July, 02, he arrested accused Jagdish @ Thakra and prepared arrest memo (Exh. P-37). During inquiry in custody, the accused disclosed about the weapon of crime vide Memorandum (Exh. P-2) and at his instance weapon of crime knife was seized as per recovery memo (Exh. P-3). His subordinate Head Constable, Rajendra Singh seized the sealed packet from the hospital. Then, all the seized articles from the spot including the articles received from the hospital as well as accused were sent to the Director, State Forensic Laboratory, City Center, Gwalior for their chemical examinations through Memo (Exh. P-41). After their examinations, the reports were received vide Exh. P-44 and Exh. P-45. After lodging the HR, the counter part of FIR was sent to the Court of Judicial Magistrate, having the jurisdiction.

13. Punjab Singh (P.W. 10), Sub-Inspector posted in the Police Station, Indarganj, Gwalior, who conducted the part of the investigation of the same crime, deposed that on 17th December, 02, he arrested accused Santosh vide arrest memo (Exh. P-28). In custody the accused informed about the weapon of crime which information was recorded vide Exh. P-32 and the weapon was seized on his production vide seizure memo (Exh. P-33). On that day, he arrested accused Devi and prepared arrest memo (Exh. P-29) and in custody on his information regarding weapon of crime the witness prepared memorandum (Exh. P-30) and on production the Katar was seized vide seizure memo (Exh. P-33). On 13th September, 02, he deposited the seized property vide Exh. P-41 to Forensic

Science Laboratory, Gwalior for chemical examination.

14. The submissions of the learned Counsel appearing for the appellants/accused are that there was a free fight on the spot in which both the parties, i.e., accused as well the complainant got injured. The counter reports were lodged against each other. It is stated that injured of both the parties were medically examined and after investigation, the charge-sheets against the complainant party as well accused were filed. As usual, the members of respective families were the eye-witnesses in both cases and both parties tried to rope the maximum family members of the accused from each side. Therefore, taking into account the above factual aspects of the matter, it is submitted that close scrutiny of the eye-witnesses* account is needed.

15. On minute examination of the deposition of witness Shahid Ali @ Indu s/o Rahamat Ali, it is gathered that he and deceased Kalu @ Aftab Ali were proceeding after taking feast from the house of Shubhan Ali to their houses. On the way near to their houses, accused Jagdish @ Thakra and Pappi met them. On hot altercations took place between Kalu @ Aftab Ali and the accused Jagdish @ Thakra and Pappi, they caused injuries by means of knife to him. As he cried for help, Ahsan Ali reached on the spot. Ahsan Ali also cried for help. Soon thereafter, family members of accused Jagdish Thakra, namely, co-accused Munna, Santosh, Devi, Santosh s/o Lalaram, Anand, Deepak, Rakesh and Chhotelal having armed with knives and Katar, reached on the spot and started causing injuries to Kalu @ Aftab Ali. When Ahsan Ali tried to rescue Kalu, accused Jagdish @ Thakra with intention to kill him, caused injuries on his abdomen and neck. Hearing scrimmage of Ahsan Ali, his brother Sahil Ali came, but he was also assaulted by accused Munna and Santosh. resultantly he received grievous injuries. Then, Amzad Ali, Asif Ali, Abid Ali and Rasid Ali reached on the spot and they took all injured to Indarganj Police Station. The said part of the story is corroborated by other eye-witnesses Amzad Ali (P.W. 3). On going through the statement of Ahsan Ali, the complainant of the incident, it appears that on being heard the noise of scuffling from the spot, he at first instance saw the incident from his balcony of the room on the first floor then he rushed to the spot and saw that all the accused were surrounding Kalu @ Aftab and causing marpeet. The statements of eye-witnesses clearly indicate that the authors of the injuries caused to Kalu @ Aftab which resulted into his death were Jagdish @ Thakra and Pappi. Rest of the accused named above reached at the latter part of the incident.

16. Further, the fact admitted by the eye-witnesses Ahsan Ali (P.W. 1), Sahid Ali @ Indu (P.W. 2) and Amzad Ali (P.W. 3) at the time of their cross-examinations before the Court cannot be denied that on the report of accused Chhotelal, a criminal case against the complainant party for causing injuries to accused-persons Rakesh, Chhotelal and Pappi in the same incident was initiated by the accused on the basis of counter report lodged by them. Dr. S. Agarkar (P.W. 9) in his cross-examination deposed that on the day of incident at 00.20 a.m., in the night, he examined accused Pappi and found three incised wounds on his scalp,

caused by sharp edged weapon and abrasion on lower lip. He referred the injured to Department of Neurology for further treatment. On that day he also examined the injured accused Chhotelal and found two incised wounds on an anterior part of right hand caused by sharp edged weapon. He also examined the injuries caused on the persons of Rakesh Pal and Munna Baghele, which were caused by hard and blunt weapons. O.P. Sagoria (P.W. 11), the Investigating Officer also admitted in his evidence before the Court that in the night of incident, accused Chhotelal Baghele lodged FIR against the complainant party, which was registered at Crime No. 252/02 for commission of offence under Sections 147, 148, 149, 341, 324, 506-B of IPC.

17. Considering the above, we come to hold as under :-

(i) that, in the incident, on oral altercations between the deceased Kalu @ Aftab and Jagdish @ Thakra and Pappi, accused Jagdish @ Thakra and Pappi inflicted the injuries to Kalu @ Aftab, which became fatal, resulting his death on the spot or onwards.

(ii) that, on the basis of statements of Ahsan Ali (P.W. 1) and Dr. S. Agarkar (P.W. 10), it appears that as Ahsan Ali interfered in the incident, accused Jagdish @ Thakra caused injuries by knife on his neck and abdomen. So accused Jagdish @ Thakra is the author of the injuries caused to Ahsan Ali.

(iii) that, on perusal of the statement of Ahsan Ali (P.W. 1), it appears that Ballu alias Shahid Ali also got injuries by knives inflicted by accused Munna and Santosh, but on looking to the deposition of Dr. S. Agarkar (P.W. 10). it appears that he examined Habib s/o Sajjad Khan and not Ballu @ Shahid Ali.

18. Apparently, considering the evidence of Ahsan Ali (P.W. 1) and the deposition of Dr. S. Agarkar (P.W. 10), there seems to be difference in ocular and medical evidence. According to Dr. Agarkar on that day, he examined three of the injured, namely, Habib s/o Sajjad Khan, vide Exh. P-38, Sahid Ali s/o Rehman Ali vide Exh. P-39 and Ahsan Ali s/o Rehmat Ali vide Exh. P-40, whereas the complainant-injured stated in his evidence that when his brother Ballu @ Shahid Ali came to his rescue, he was restrained by accused Santosh and Munna who inflicted injuries to him by their knives. Hence, there is material contradiction in between the ocular and the medical evidence on record which entitles the accused Santosh and Munna to benefit of doubt. Thus, the charges against rest of the accused appellants, namely, Santosh and Munna for causing injuries to Baloo @ Shahid Khan are not proved beyond reasonable doubts and they are entitled to acquittal on that count.

19. Now, the question remains to be answered is as to what offence has been committed by appellants/accused Nos. 1 and 2, Pappi and Jagdish ?

20. At this juncture, it would be relevant to refer the decision of the Apex Court in the case of Laxminath Vs. State of Chhattisgarh, wherein it is held :-

In the scheme of the IPC culpable homicide is genus and "murder" its specie. All

"murder" is "culpable homicide" but not vice-versa. Speaking generally, "culpable homicide" sans "special characteristics of murder is culpable homicide not amounting to murder". For the purpose of fixing punishment, proportionate to the gravity of the generic offence, the IPC practically recognizes three degrees of culpable homicide. The first is, what may be called, "culpable homicide of the first degree". This is the gravest form of the culpable homicide, which is defined in Section 300 as "murder". The second may be termed as "culpable homicide of the second degree". This is punishable under the first part of Section 304. Then, there is "culpable homicide of the third degree". This is the lowest type of culpable homicide and the punishment provided for it is also the lowest among the punishments provided for the three grades. Culpable homicide of this degree is punishable under the second part of Section 304.

21. Further, in the case of A. Maharaja Vs. State of Tamil Nadu, the Apex Court held :-

8. The Fourth Exception of Section 300, IPC covers acts done in a sudden fight. The said exception deals with a case of prosecution not covered by the first exception, after which its place would have been more appropriate. The exception is founded upon the same principle, for in both there is absence of premeditation. But, while in the case of Exception 1 there is total deprivation of self-control, in case of Exception 4, there is only that heat of passion which clouds men's sober reason and urges them to do deeds which they would not otherwise do. There is provocation in Exception 4 as in Exception 1; but the injury done is not the direct consequence of that provocation. In fact, Exception 4 deals with cases in which notwithstanding that a blow may have been struck, or some provocation given in the origin of the dispute or in whatever way the quarrel may have originated, yet the subsequent conduct of both parties puts them in respect of guilt upon equal footing. A "sudden fight" implies mutual provocation and blows on each side. The homicide committed is then clearly not traceable to unilateral provocation, nor in such cases could the whole blame be placed on one side. For if it were so, the Exception more appropriately applicable would be Exception 1. There is no previous deliberation or determination to fight. A fight suddenly takes place, for which both parties are more or less to be blamed. It may be that one of them starts it, but if the other had not aggravated it by his own conduct it would not have taken the serious turn it did. There is then mutual provocation and aggravation, and it is difficult to apportion the share of blame, which attaches to each fighter. The help of Exception 4 can be invoked if death is caused (a) without premeditation; (b) in a sudden fight; (c) without the offender's having taken undue advantage or acted in a cruel or unusual manner; and (d) the fight must have been with the person killed. To bring a case within Exception 4 all the ingredients mentioned in it must be found. It is to be noted that the Tight1 occurring in Exception 4 to Section 300, IPC is not defined in the IPC. It takes two to make a fight. Heat of passion requires that there must be no time for the passions to cool down and in this case, the parties have worked themselves into a fury on account of the verbal altercation in the

beginning. A fight is a combat between two and more persons whether with or without weapons. It is not possible to enunciate any general rule as to what shall be deemed to be a sudden quarrel. It is a question of fact and whether a quarrel is sudden or not must necessarily depend upon the proved facts of each case. For the application of Exception 4, it is not sufficient to show that there was a sudden quarrel and there was no premeditation. It must further be shown that the offender has not taken undue advantage or acted in cruel or unusual manner. The expression "undue advantage" as used in the provision means "unfair advantage".

22. Looking to the evidence discussed above, it is apparent that the accused-appellants Pappi and Jagdish entered into sudden and unprecedented quarrel with the deceased. The dispute arose out of altercations between the parties in which both the parties have sustained injuries and counter reports were lodged by them against each other. Under the circumstances and keeping the settled principles of law in view that where there is no evidence on record suggesting that the accused had the intention to cause such bodily injury as he knew to be likely to cause death, he cannot be held guilty for murder within the meaning of Section 300 of IPC.

23. On careful consideration of the entire material on record, we find that the accused Pappi and Jagdish are guilty of offence u/s 304 Part I of IPC and not u/s 302 of IPC. Thus, setting aside their conviction u/s 302 of IPC, they are convicted u/s 304 Part I of IPC and sentenced to undergo rigorous imprisonment of ten years by maintaining the amount of fine, as awarded by the Trial Court for the alleged offence. The fine amount, if not deposited, shall be deposited within as period of two months from the date of this judgment else the appellants shall have to suffer additional rigorous imprisonment of one year. It is further directed that the period of detention if any undergone by these appellants during investigation, inquiry or trial of the case and before the date of such conviction shall be set off against the term of sentence of imprisonment imposed on them by this Court.

24. As regards conviction and sentence recorded against appellant No. 2-Jagdish @ Thakra for causing hurt by means of knife to injured Ahsan Ali, same is held to be proper and stands hereby maintained. The appellant No. 2-Jagdish @ Thakra who has been admitted to interim bail shall surrender himself to the Trial Court for undergoing the period of jail sentence awarded to him for the alleged offence by this Court. Consequently, the order passed by this Court on 17th October, 2011 extending his period of bail for further three months stands cancelled.

25. By invoking the provisions of Section 357, Cr.P.C., the Trial Court is hereby directed to pay as a compensation to the family members of the deceased, a sum of Rs. 10,000/- (Rupees Ten thousand only) consequent upon deposit of fine amount by the accused Pappi and Jagdish. In the result, Cri. Appeal No. 248/04 stands partly allowed in the manner aforesaid whereas Cri. Appeal No. 273/04 preferred by appellants Santosh and Munna stands allowed. Their conviction and

sentence recorded by the Trial Court for commission of offence u/s 324 of IPC are hereby set aside.