
(2004) 04 AHC CK 0022
In the Allahabad High Court
Case No : Criminal Appeal No. 1226 of 1981

Raghubir Singh and Others (In Jail) APPELLANT
Vs
State of U.P. RESPONDENT

Date of Decision : 06-04-2004

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 161
Penal Code, 1860 (IPC) — Section 302, 323, 324, 325, 34

Citation : (2004) 3 ACR 2089

Hon'ble Judges : M.C. Jain, J;K.K. Misra, J

Bench : Division Bench

Advocate : S.P. Singh Raghav and Raghuraj Kishore, for the Appellant; S.S. Tiwari and K.K. Srivastava and Ramyash Pandey, A.G.A., for the Respondent

Final Decision : Dismissed

Judgement

M.C. Jain, J.—The four Appellants, namely Raghubir Singh, Indrapal Singh, Laxman and Bachan Singh are real brothers being the sons of one Chandrabhan alias Khilari. They have preferred this appeal against judgment and order dated 22.5.1981, passed by Sri M. H. Khan, the then Vth Additional Sessions Judge, Muzaffarnagar in Sessions Trial No. 179 of 1980. All of them have been convicted u/s 302, I.P.C. read with Section 34, I.P.C. and Section 325, I.P.C. read with Section 34, I.P.C. The sentence of life imprisonment has been passed for the former offence and that of three years" rigorous imprisonment against each of them for the latter.

2. The incident took place on 14.5.1980 at about 4 p.m. in village Bhabhisa, P.S. Kandhla, district Muzaffarnagar. The distance of the police station from the place of occurrence was about 3 miles. The F.I.R. was lodged the same day at 5.45 p.m. by Ajab Singh P.W. 1, brother of one of the deceased Ram Kishan. It was double murder and the other deceased was Ram Kishan's mother Mankaur. Smt. Saroj wife of younger brother of Ram Kishan sustained injuries including fracture in the incident. The parties resided in the same village Bhabhisa and the litigation

was pending between the two sides when the incident took place. Admittedly, in 1978 Smt. Shitlo wife of accused Raghubir had filed a criminal case u/s 354, I.P.C. against Ram Kishan deceased, Ajab Singh P.W. 1 and others in which they were convicted. The accused persons allegedly bore grudge against Ram Kishan deceased on account of the incident of Section 354, I.P.C. In 1978 itself, Ram Kishan deceased had also filed a case u/s 323/324, I.P.C. against Raghubir, Indrapal accused etc. On the fateful day and time, Ram Kishan deceased, his mother Mankaur and brother's wife Smt. Saroj were at their house. Ram Kishan set out of the house to engage some labourers from the village. When he reached near dehleez of the accused, they, in furtherance of their common intention to kill him, attacked him with the lathis and fists. Ram Kishan raised alarm which attracted Smt. Saroj P.W. 2 and his mother Mankaur (deceased). Ajab Singh P.W. 1, at that time, was away at the brick-kiln in another village. When Mankaur and Saroj reached the spot, they saw that these accused persons were assaulting Ram Kishan on the kharanja with lathis and fists and Ram Kishan was lying on the ground. Both the ladies tried to save him and they were also assaulted by the accused. On shouts, Malkhan Singh, Mahabir, etc. also rushed up to the spot. The accused while assaulting Ram Kishan forcibly took him inside their dehleez where also he was assaulted by them. Ultimately they closed the door of their dehleez. In the meantime, the information of the incident was received by Ajab Singh. He came to his house and learnt about the matter from the ladies and witnesses. Ajab Singh then took the two ladies to P.S. Kandhla where he lodged the F.I.R. Ext. Ka-1. Mankaur, an old lady of about 70 years, was in precarious condition. Smt. Saroj was also injured.

3. After a case being registered consequent upon the lodging of the F.I.R., the two injured ladies were sent for medical examination with constable Harkesh Singh P.W. 13. Before the Doctor could attend the injured Mankaur, she died in the hospital. The information was sent to P.S. Kandhla through ward-boy Dukkhi Ram by Dr. Sita Ram P.W. 12. Then S.I. Rajbal Singh P.W. 6 went to Kandhla Hospital and prepared the inquest report of Mankaur and sent the dead body for post-mortem examination through constable Ratan Singh and Constable Banwari Lal P.W. 5.

4. The investigation was entrusted to S.I. K.C. Tyagi P.W. 11. Soon after the arrival of two ladies at the police station, he recorded the statement of Mankaur while the F.I.R. was under preparation. Then he proceeded for the place of occurrence with Constable Atar Singh and Ompal Singh P.W. 8. All of them reached village Bhabhisa at about 6.30 p.m. where they learnt about the death of Ram Kishan. The Investigating Officer recorded the statement of Malkhan Singh P.W. 3 and Raghubir (not accused). Then he went into the dehleez of the accused and found the dead body of Ram Kishan lying there. Two lathis (Exts. 1 and 2) with blood stains were found in the dehleez of the accused which were taken in possession and sealed at the spot. He then took blood stained and plain earth from the place of occurrence. The site plan was prepared. The inquest report of Ram Kishan could not be prepared in the night which he prepared the

next morning. After completing formalities, the dead body was sealed and sent for post-mortem through constables. The same day, the S.O. also reached the spot and went in search of the accused. At about 2.30 p.m. Raghubir, Indrapal Singh and Lachhman were arrested on the Rajbaha whereas the accused Bachan Singh was arrested on 16.5.1980 at 7.30 a.m.

5. The post-mortem over the dead body of Ram Kishan and Mankaur was conducted by Dr. R. K. Tandon P.W. 7 on 15.5.1980 at 4 p.m. and 4.45 p.m. respectively. It would be relevant to set out below the outcome of the post-mortem as also of the injury report of Smt. Saroj P.W. 2. Ram Kishan was aged about 50 years and about one day had passed since he died. The following 21 ante-mortem injuries were found on his person:

- (1) Contusion 8 cm. ? 6 cm. both side occipital region.
- (2) Abrasion 6 cm. ? 3 cm. on the top and front of left shoulder region.
- (3) Contusion 4 cm. ? 2 cm. on the top of right shoulder region.
- (4) Abrased contusion 4 cm. ? 1 cm. on the back left elbow region.
- (5) Contusion 8 cm. ? 5 cm. on the back left forearm middle and lower region with fracture of both bones.
- (6) Lacerated wound 2 cm. ? 1/2 cm. ? muscle deep on the back of left thumb.
- (7) Contusion 2 cm. ? 2 cm. on the back of left index finger, fracture of phalanx on middle.
- (8) Abrased contusion 6 cm. ? 4 cm. on the back of right elbow region.
- (9) Contusion 4 cm. 5 cm. on the outer and front of right arm lower region.
- (10) Contusion 8 cm. ? 4 cm. on the back right forearm.
- (11) Lacerated wound 4 cm. ? 1/2 cm. ? back deep right side scrotum.
- (12) Lacerated wound 3 cm. ? 1/2 cm. ? back deep left side scrotum.
- (13) Contusion 10 cm. ? 5 cm. on the right side thigh outer and front lower region.
- (14) Abrased contusion 8 cm. ? 4 cm. on the right leg lower and middle region front and outer aspect.
- (15) Abrasion 2 cm. ? 1 cm. on the dorsum of right front.
- (16) Abrasion contusion 5 cm. ? 4 cm. on the left knee region front.
- (17) Lacerated wound 4 cm. ? 1/2 cm. ? bone deep left leg middle, fracture right tibia bone.
- (18) Contusion 8 cm. ? 4 cm. on the right side scapula region, fracture of 4th rib.

(19) Contusion 5 cm. ? 4 cm. on the right side in front scapular region.

(20) Contusion 12 cm. ? 5 cm. on the right side gluteal region.

(21) Contusion one abrasion 5 cm. ? 4 cm. on the left side scapular region.

The death had occurred due to shock and haemorrhage as a result of ante-mortem injuries.

6. Smt. Mankaur was aged about 70 years and about one day had passed since she died. The following ante-mortem injuries were found on her person:

(1) Contusion 10 cm. ? 6 cm. on the right side neck.

(2) Contusion 9 cm. ? 5 cm. on left side neck, continuous with injury No. 1, transverse, ecchymosis present on edge, fracture of larynx.

(3) Contusion 6 cm. ? 4 cm. both side neck back.

(4) Contusion 8 cm. ? 4 cm. on the right side gluteal region.

The cause of death was shock, haemorrhage and strangulation as a result of injuries sustained by her.

7. Smt. Saroj was medically examined on 14.5.1980 at 6.15 p.m. by Dr. Sita Ram P.W. 12. The following injuries were found on her person:

(1) An abrasion on the left upper arm size 4" ? 3/4" and lying obliquely, 3" below the tip of left shoulder.

(2) Bruise of 4-1/2" ? 1" on the left upper arm, 2-3/4" below the tip of the left shoulder.

(3) Patient complained of serious pain in left upper arm and inability to move.

(4) Patient complained of pain in the back.

The lady was pregnant of about nine months. Injury Nos. 1 and 2 were simple and caused by some blunt object. Injury No. 3 was kept under observation and X-ray was advised of left upper arm. Her left upper arm was X-rayed by Dr. S. C. Gupta P.W. 14 on 16.5.1980 and there was fracture of left humerus.

8. The defence was of denial and of false implication owing to enmity.

9. Besides relying on formal evidence including that relating to medical aspect and investigation, the material witnesses of the prosecution were Ajab Singh P.W. 1, Saroj P.W. 2 (injured) and another eye-witness Malkhan Singh P.W. 3. Ajab Singh P.W. 1 was not an eye-witness because he was not present at his house at the time of incident having gone to another village. He only learnt about the details of the incident on reaching home. Therefore, material testimony was of Saroj P.W. 2 and Malkhan Singh P.W. 3. As evidence of the prosecution found favour for the trial Judge, he recorded the judgment impugned through this appeal.

10. We have heard Sri Raghuraj Kishore, learned Counsel for the Appellants, Sri Ramyash Pandey, learned A.G.A. and Sri S. S. Tiwari, learned senior advocate for the complainant. The record of the lower court has been summoned which we have also carefully perused.

11. The submission of learned Counsel for the Appellants is that Ajab Singh P.W. 1 was not an eye-witness and he implicated the accused Appellants owing to enmity and litigation. He also assailed the testimony of the eye-witness Malkhan Singh on the ground that he was a partisan and interested witness. The presence of another eye-witness Saroj P.W. 2 injured at the spot was disputed. It is also his submission that there was contradiction in oral and medical evidence.

12. The learned A.G.A., on the other hand, has countered these submissions on the basis of which the finding of guilty arrived at by the learned trial Judge is sought to be reversed.

13. No doubt, Ajab Singh P.W. 1 was not an eye-witness. It is also an admitted fact that the parties had been litigating earlier and the litigation was pending, even when the incident had occurred. It would be recalled that before this occurrence, Shitlo wife of the accused Appellant Raghubir Singh had filed a criminal case against the deceased Ram Kishan and others u/s 354, I.P.C. It is also an admitted fact that Ajab Singh P.W. 1 and Ram Kishan had been convicted in that case. The enmity is a double edged weapon. But in the instant case, it is not appealing that Ajab Singh P.W. 1 would have implicated the accused Appellants falsely because of enmity, litigation and owing to the fact that he, Ram Kishan and others had been convicted u/s 354, I.P.C. at the behest of Shitlo wife of Raghubir Singh accused Appellant. It cannot be denied that the offence of Section 354, I.P.C. is of sensitive nature. We note from ante-mortem Injury Nos. 11 and 12 of Ram Kishan that both of his scrotums had been targeted. There were lacerations on both the scrotums of the deceased. He had sustained as many as 21 total injuries on account of the strike of blunt objects. Obviously, there were repeated assaults made on him. It is eloquent of the fact that the accused Appellants were not satisfied by mere conviction of Ram Kishan u/s 354, I.P.C. The conviction alone did not feed their grudge and while raining lathi blows on him, they particularly targeted his both the scrotums to derive sadistic pleasure to avenge the offence of Section 354, I.P.C. (committed by the deceased Ram Kishan towards Shitlo) in their own way. They nurtured grudge of such high intensity against the deceased for having committed such an offence u/s 354, I.P.C. with the wife of one of them that they decided to finish him by repeatedly assaulting him with lathis, also particularly targeting his scrotums. Their hatred against Ram Kishan was limitless. In the present case, therefore, there was nothing to indicate that Ajab Singh P.W. 1 implicated the accused Appellants falsely. Rather, the boot was on the other leg that four real brothers were extremely hurt to the core of their hearts because of the commission of offence u/s 354, I.P.C. by Ram Kishan in respect of the wife of one of them and they perpetrated this crime to avenge themselves. Had Ajab Singh P.W. 1 been

actuated by the instinct of ill-will, he could pose himself to be an eye-witness. He did not do anything of the kind. Moreover, it is not acceptable that leaving real culprits, he would substitute the accused Appellants for them. Being brother of the deceased Ram Kishan and son of the other deceased as also the brother-in-law of the injured witness, he would be naturally interested in the real culprits being booked and punished for the serious crime committed by them. We find it to be impossible to accept the argument that Ajab Singh P.W. 1 falsely implicated the accused Appellants.

14. Saroj P.W. 2 is wife of the brother of deceased Ram Kishan and daughter-in-law of other deceased Mankaur. She is an injured witness and her testimony carries great weight. It has also to be kept in mind that the incident took place just outside the house of the parties on the kharanja in the eastern side. Her evidence is that she and her mother-in-law were sitting inside their dehleez when Ram Kishan had come out to go to engage some labourers. On hearing his shouts, she and her mother-in-law had come out and they had seen all the four accused persons raining lathis on Ram Kishan in front of their dehleez. Her mother-in-law Mankaur fell on Ram Kishan to cover him and to save him. She and her mother-in-law were assaulted by the accused persons with lathis. Her injury report is Ext. Ka-25. She had been examined on 14.5.1980 at 6.15 p.m. and duration of injuries was fresh in the opinion of the Doctor. He found one abrasion and one bruise on her person with complaint of pain. She was at that time in advanced stage of pregnancy and could not be accepted to have fallen down on Ram Kishan (elder brother of her husband) to save him like her mother-in-law. It is, thus, explained that she only received lesser injuries. She was complaining of serious pain on left upper arm and was unable to move it. This injury was kept under observation and X-ray was taken by Dr. S. C. Gupta P.W. 14. He found fracture of left humerus bone. Thus, this injury turned out to be grievous.

15. Learned Counsel for the Appellants urged that her medical examination report was suspicious because in her injury report in injury Nos. 1 to 3, seat of injury was first scribed as "forearm", but then the word "fore", was scored out and substituted by "upper". We find that these cuttings are in the signatures of Dr. Sita Ram P.W. 12 who has satisfactorily explained them that out of confusion he first wrote the seat of injury as "forearm" but then he cut the word "fore" and substituted it by "upper". To err is human. It is not possible to draw the conclusion that the word "fore" was substituted as "upper" sometime later on to give a boost to the prosecution case. The X-ray was done by Dr. S. C. Gupta P.W. 14 and fracture of humerus bone was found in the left upper arm. There is no room whatsoever to suspect the genuineness of the medical examination report of Saroj P.W. 2 an injured witness whose presence at the spot was most natural. The medical examination report was prepared on the back of chitthi majroobi sent from the police station after the lodging of the F.I.R. through a constable with whom the injured was despatched for medical examination. It is amply proved that she received injuries due to lathi wielded by the accused Appellants

in the same transaction when she had come out with her mother-in-law at the shouts of Ram Kishan and had tried to save him. Her mother-in-law had fallen on Ram Kishan to cover him whereas she was protesting standing nearby. There is no noticeable contradiction or infirmity either in her statement to castigate the central core of her testimony that the accused Appellants rained lathi blows on Ram Kishan, her mother-in-law and herself on the given day, time and place.

16. So far as the criticism against another eye-witness Malkhan Singh P.W. 3 is concerned, we find the same to be wholly ungrounded. It may be stated that he is named as an eye-witness in the promptly lodged F.I.R. and it is there in the testimony of informant Ajab Singh P.W. 1 that after he had reached his house on getting information about this crime, he had learnt that Malkhan Singh P.W. 3 was also a person who had witnessed the incident. The house of Malkhan Singh P.W. 3 is depicted in the site plan a little west-ward to the kharanja where the incident started. It is situated in the south of the gher of the accused Appellants, meant for cattle. This gher is in the west of the dehleez of the accused Appellants. There is opening in the eastern side on the kharanja where the incident started and another opening is in the western side in the gher. The prosecution evidence and the case is that after assaulting Ram Kishan on the kharanja for a while, the accused persons forcibly took him inside their dehleez through its eastern door and they further assaulted him there. Malkhan Singh P.W. 3 has stated that at the fateful time he was coming from the road to the village with Raghubir and on reaching near the gher of Sri Chand, he heard commotion emanating from the kharanja by the side of the house of Raghubir Singh accused. He went there and found Ram Kishan lying on the ground and the accused persons assaulting him with lathis, that Ram Kishan's mother and brother's wife also appeared there ; that his mother fell on Ram Kishan to ward off lathi blows ; that the accused Appellants assaulted Ram Kishan's mother and brother's wife too with lathis. He also stated that the accused also pushed aside Ram Kishan's mother from over him and forcibly took away Ram Kishan inside their dehleez and shut the door. Thus, Malkhan Singh P.W. 3 is one of those who had arrived at the time of occurrence. He has explained his presence on the spot that he was returning from his tubewell.

17. Learned Counsel for the Appellants reasoned that he was inimical to the accused and an interested witness in that he admitted that in the case filed by Shitlo wife of accused Raghubir Singh against Ram Kishan etc. he had stood surety for the wife of Mahak Singh, one of the co-accused. So he was not an independent witness. We do not think that for this simple fact of his having stood surety for one of the accused of the case of Section 354, I.P.C. in which Shitlo wife of one of the accused was the victim, he could be termed as inimical, partisan or interested witness. The accused-Appellants had done nothing to incur his personal displeasure which could actuate him to depose falsely against them. There was nothing to show that he was related to the complainant. His testimony is well trustworthy. There is nothing to castigate his evidence.

18. A careful and cautious analysis of the ocular evidence conclusively proves the prosecution story that the assailants of this crime were the four accused Appellants.

19. It is also established from the evidence on record that the dead body of Ram Kishan was recovered from the dehleez of the accused. It is a very strong factor speaking volumes by itself, supporting the prosecution case. It could not be imagined that the dead body of Ram Kishan was recovered from somewhere else and thrown into the dehleez of the accused to implicate them falsely. There is no warrant for such conjecture or presumption. Atal Singh P.W. 4, a witness of the inquest report of Ram Kishan, also proved the recovery of the dead body of Ram Kishan from the dehleez of the accused. He was resident of the same village, his house being only two furlongs away from the gher of the accused Appellants. Indeed, the accused Appellants would not have permitted the placing of the dead body in their dehleez after being brought from somewhere else. They would not have allowed it to be done at all because it could be used as evidence against them. The consistent case of the prosecution was that the accused first assaulted Ram Kishan outside their dehleez and then they took him forcibly inside their dehleez where they continued to do so, resulting in his death. Since Ram Kishan succumbed to his injuries, they had no option but to run away leaving the dead body in their dehleez. There is popular adage that sometimes a culprit leaves marks of the crime committed by him which offer a piece of evidence against him, as has happened in the present case.

20. According to the prosecution, the incident started on the kharanja and thereafter the accused took Ram Kishan inside their dehleez from where the dead body was recovered by the police. The Investigating Officer well explained that there were small blood stains on the kharanja which could not be physically taken up. But the blood was found in the dehleez of the accused near the dead body where Ram Kishan was forcibly taken by the accused persons after giving some assault to him on the kharanja.

21. Learned Counsel for the Appellants attempted to show that the time of incident as alleged by the prosecution was doubtful in view of the stomach condition of the deceased Ram Kishan as recorded in the post-mortem report. According to him, the time of incident as alleged by the prosecution did not tally with his stomach condition and, therefore, there was conflict between the ocular testimony and medical evidence. We do not find any merit in the contention. Sarooj P.W. 2 has stated that Ram Kishan had taken his meal at about 12 or 1 O'clock in the noon and was going to engage the labourers at about 4 p.m. when the incident occurred. By then, the stomach could be empty as found in post-mortem report. So, there is no contradiction between medical and ocular evidence in this behalf.

22. According to the learned Counsel for the Appellant, the ocular evidence was contradictory to the medical evidence insofar as the deceased Mankaur was concerned and as such the entire prosecution story was rendered doubtful.

Making reference to the judgment of the lower court, he urged that the learned trial Judge did not hold the death of Mankaur to be the part of the same transaction because of conflict between the medical and ocular testimony. It has been pointed out that her death was due to shock, haemorrhage and strangulation. The Doctor found three contusions on her neck and one contusion on the hip. Fracture of larynx was also found. This fracture would have rendered her incapable to speak. Besides that, it has been vehemently argued that Ajab Singh P.W. 1 deposed that when he reached home, he was informed of the incident by his mother Mankaur as well as his sister-in-law Saroj. Not only this, the Investigating Officer professed to record Mankaur's statement u/s 161, Cr. P.C. at the police station where she was allegedly taken along with other injured Saroj by Ajab Singh P.W. 1. The argument of learned Counsel for the Appellants is that the lower court did not believe that Mankaur was actually taken to the police station at all. Rather, she was directly taken to the hospital where she was declared to be dead. Learned Counsel for the Appellants tried to derive support for his argument from the testimony of Dr. R. K. Tandon P.W. 7 that after suffering injuries as found on the dead body of the deceased Mankaur, she must have died within 5 or 7 minutes. The ocular testimony was assailed that she received lathi injuries. Learned Counsel tried to make out a point that strangulation could not be possible by assault with lathi. Dealing with this aspect of the matter, we should make it clear that in an appeal, the powers of the High Court in dealing with the case are as extensive as of the trial court. The entire evidence is there before the appellate court for appraisal for drawing proper conclusion on careful and cautious scrutiny. On careful consideration, we are of the opinion that the learned trial Judge on superficial approach held that the death of Mankaur was not part of the same transaction and that she was not taken to the police station with the other injured Saroj by Ajab Singh P.W. 1. True, Ajab Singh P.W. 1 stated to have been informed by his mother Mankaur also at the house about the incident and the Investigating Officer also professed to record her statement u/s 161, Cr. P.C. at the police station. But there could be an exaggeration on the part of Ajab Singh P.W. 1 in saying so or a little over-doing by the Investigating Officer to boost up the prosecution case. There is hardly any case where the statement of a truthful witness does not contain a little exaggeration or even a grain of untruth. It has to be kept in mind that variances on the fringes or a little exaggeration by a witness would not render the case of prosecution to be doubtful. We note on the scrutiny of the statement of R. K. Tandon P.W. 7 that he did say that the injuries found on the person of Mankaur could be caused by blunt object like lathi or danda. He was specific that on forceful blows of lathi, her ante-mortem injury Nos. 1, 2 and 3 could be sustained. She was a lady aged about 70 years. The copy of G.D. Ext. Ka-11 shows that two ladies (Mankaur and Saroj) were sent for medical examination to Kandhla Hospital. Though her death was caused due to shock, haemorrhage and strangulation and there was fracture of larynx in injury No. 2, but as stated by the Doctor, the injuries sustained by her could be caused by forceful blows of lathi. Four lathi wielding accused Appellants assaulted her. There was no external

bleeding on her person. It was quite possible that though she was not speaking after the injuries, but her rustic son Ajab Singh and others believed her to be alive and she was first taken to the police station and then to Kandhla Hospital where she was declared dead. The eye-witnesses in their evidence stated that when Mankaur fell on Ram Kishan covering him, they removed her physically from the body of Ram Kishan with the help of using force by lathis and lifted her by her neck. It should be stated in this regard that graphic picturisation of the assault is not possible from truthful witnesses. Every one is not able to make use of selective and most appropriate words to convey his meaning, more so when the witness is rustic of rural background. Therefore, the accused Appellants do not gain any point by referring to the words used by the two rustic eye-witnesses in their cross-examination to describe the assault of lathi blows on Mankaur. The point of the matter is that four lathi wielding accused Appellants assaulted Mankaur, targeting her neck. Injuries received by her could possibly be sustained by forceful blows of lathi on the affected area. The strangulation could be possible through lathis being used by four accused Appellants targeting her neck. Therefore, we disagree with the learned trial Judge that the death of Mankaur was not part of the same transaction. It actually was very much part of the same transaction and her strangulation with fracture of larynx could be possible with the use of lathis by four accused Appellants. We, therefore, do not see any inconsistency in medical evidence and ocular testimony as regards Mankaur.

23. Deads cannot cry out for justice. It is for the courts to do so for them.

24. After bestowing anxious thought to the evidence of record and on its proper appraisal in the light of the arguments advanced at the bar, we are in judgment that the prosecution succeeded in proving its case that the accused Appellants committed murder of Ram Kishan and that of his mother Mankaur who with Saroj had come to his rescue. She had fallen on Ram Kishan to cover him, but was herself assaulted by the accused Appellants with lathis mainly targeting her neck. They also caused grievous hurt to Saroj P.W. 2 who too had come out of her house with her mother-in-law and was protesting the assault. As she sustained fracture also, hurt to her falls within the ambit of Section 325, I.P.C. All the accused persons were acting in concert with previous meeting of minds and as such they committed offence u/s 302, I.P.C. read with Section 34, I.P.C. for double murder of Ram Kishan and his mother Mankaur as also u/s 325, I.P.C. read with Section 34, I.P.C. for causing grievous hurt to Saroj P.W. 2. The conviction and sentences passed by the trial court against them do not call for any interference.

25. We do not find any merit in this appeal. The appeal is dismissed. The Appellants Raghubir Singh, Indrapal Singh, Laxman and Bachan Singh are on bail. The Chief Judicial Magistrate, Muzaffarnagar, shall cause them to be arrested and lodged in jail to serve out the sentences passed against them.

The judgment be immediately certified to the lower court and compliance be reported to this Court within two months from the date of receipt of a copy of

this order.