
(2016) 01 RAJ CK 0124

In the Rajasthan High Court

Case No : Criminal Appeal No. 1582 of 2007.

Rakesh Kumar and Others

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 11-01-2016

Acts Referred:

Penal Code, 1860 (IPC) — Section 148, 149, 302, 323 149, 324 149

Citation : (2016) 1 RajCriC 311

Hon'ble Judges : Mr. Kanwaljit Singh Ahluwalia; Mr. Prakash Gupta, JJ.

Bench : Division Bench

Advocate : Mr. R.K. Mathur, Sr. Advocate with Mr. Peyush Nag, Advocate, for the Appellant; Mr. Aladeen Khan, Public Prosecutor, for the Respondent

Final Decision : Disposed Off

Judgement

Ahluwalia, J.(Oral) - Rakesh (P.W.3) s/o Birdhi Chand (P.W.5) had presented written report (Ex.P.4) before Setha Ram (P.W.30) who on 18.1.2005 was posted as S.H.O., Police Station Madanganj. On the basis of written report (Ex.P.4), formal FIR (Ex.P.5) bearing FIR No.32/05 was registered at Police Station Madanganj, District Ajmer. In the occurrence both the complainant and accused side have caused injuries to each other. In the occurrence Prakash due to receipt of injuries died and from the side of the complainant, Rakesh (P.W.3), Birdhi Chand (P.W.5), Rajesh (P.W.6), Rajendra Kumar (P.W.8), Mahendra Kumar (P.W.15), Alam Chand (P.W.16), Smt. Sita Devi (P.W.25) had received injuries. Roshan Lal is principal accused. On the side of accused, four persons namely Sunny s/o Roshan Lal principal accused, Bunty s/o Prakash Chand, Jai Chand s/o Chotulal and Vinod s/o Om Prakash had received injuries. Regarding the occurrence, a cross FIR (Ex.D.24) on the same date was also registered.

2. In the present case, both the sides have denied causing injuries to each other, but have presented version and cross version of the same occurrence in the written reports (Ex.P.4 and Ex.D.24).

3. Written report (Ex.P.4) presented by Rakesh (P.W.3) leading to registration of FIR (Ex.P.5) was investigated and thirteen persons namely Rakesh Kumar s/o Prakash Chand, Dharmendra Kumar s/o Chhotu Lal, Roshan Lal s/o Chhotu Lal, Raju Lal s/o Prakash Chand, Jai Chand s/o Chhotu Lal, Vinod s/o Om Prakash, Bunty s/o Prakash Chand, Sunil Kumar @ Sunit s/o Suresh Kumar, Raju s/o Devendra, Rakesh @ Bhaiya s/o Madanlal, Murlidhar s/o Madanlal, Deepak Kumar s/o Jagdish Kumar and Amit @ Deepu s/o Suresh along with Sunny s/o Roshan, Kalu Ram s/o Jai Chand were named as accused.

4. Sunny and Kalu Ram were found to be delinquent juvenile and their case was sent for trial before the concerned Juvenile Justice Board. Remaining thirteen persons were tried by the Court of Additional Sessions Judge (Fast Track) No.3, Ajmer Camp Kishangarh. The said court vide impugned judgment dated 4.8.2007 held accused Roshan Lal s/o Chhotu Lal guilty of offences under Sections 302, 324/149, 323/149, 148 IPC, Sunil @ Sunit s/o Suresh Kumar, Raju s/o Prakash, Bunty s/o Prakash, Amit @ Deepu s/o Suresh, Vinod s/o Om Prakash, Jai Chand s/o Chhotu Lal were found guilty of offences under Sections 302/149, 323/149, 324/149 and 148 IPC. Remaining accused namely Rakesh Kumar s/o Prakash Chand, Raju s/o Devendra, Murlidhar s/o Madanlal, Deepak Kumar s/o Jagdish, Rakesh @ Bhaiya and Dharmendra Kumar s/o Chhotu Lal were acquitted of offences under Sections 302/149, 307/149 IPC, but were only convicted for offences under Sections 324/149, 323/149 and 148 IPC. Aggrieved against their conviction and sentence, the thirteen appellants namely Rakesh Kumar s/o Prakash Chand, Dharmendra Kumar s/o Chhotu Lal, Roshan Lal s/o Chhotu Lal, Raju Lal s/o Prakash Chand, Jai Chand s/o Chhotu Lal, Vinod s/o Om Prakash, Bunty s/o Prakash Chand, Sunil Kumar @ Sunit s/o Suresh Kumar, Raju s/o Devendra, Rakesh @ Bhaiya s/o Madanlal, Murlidhar s/o Madanlal, Deepak Kumar s/o Jagdish Kumar and Amit @ Deepu s/o Suresh have preferred the present appeal to assail their conviction and sentence.

5. We are informed that the appellant No.6 Vinod s/o Om Prakash during pendency of appeal has died. At the time of final arguments, we propose not to hold an inquiry regarding the factum of death of appellant No.6 Vinod s/o Om Prakash. He will be bound by the result of instant judgment if he is alive, otherwise the Chief Judicial Magistrate, Ajmer shall hold an inquiry and in case he is found dead, the concerned Chief Judicial Magistrate shall pass the order regarding abatement of proceedings qua Vinod s/o Om Prakash appellant No.6.

6. Now we will proceed to recapitulate the brief facts of the case.

7. In the present case occurrence had taken place on 18.1.2005 between 7.30 PM to 8.00 PM opposite the house of accused-appellant Jai Chand s/o Chhotu Lal. Jai Chand is brother of principal accused Roshan Lal. Rakesh (P.W.3) has admitted that house of complainant party is not visible from the place of occurrence and the house of accused Jai Chand is situated near to the place of occurrence. We will reproduce the following part of cross-examination of Rakesh (P.W.3):-

">xM+s dh txg ls gekjk ?kj ugha fn[krk >xM+s dh txg ls gekjk ?kj djhc 60 and 70 dne dh nwjh ij gSA >xM+s dh txg fctyh ds ikSY ds ikl t;pan dk ?kj gS ogha ij >xM+k gqvK FkkA

8. The prosecution story unfolded in the written report (Ex.P.4) can be summed up as under:-

Rakesh (P.W.3) is son of Birdhi Chand (P.W.5). Saraswati (P.W.11) daughter of his uncle Lal Chand was student of 9th Class. Sunny who being delinquent juvenile was sent for trial before the Juvenile Justice Board, was staying in the same mohallah where Saraswati (P.W.11) was residing. He used to tease Saraswati. Due to eve teasing by Sunny relations between the parties were strained. Few days before the occurrence on 30.12.2004 Sunny had harassed Saraswati (P.W.11) and qua this incident, primarily Saraswati had lodged complainant to her parents. On 18.1.2005 Saraswati (P.W.11) cousin of Rakesh (P.W.3) was again teased by Sunny. Rakesh (P.W.3) went to lodge a protest to the house of Roshan Lal father of Sunny in the evening between 7.30 to 8.00 PM. He complained to Roshan Lal that his son Sunny had again teased Saraswati (P.W.11) and the same is again not correct. Roshan Lal lost temper and pushed Rakesh (P.W.3) out of his house. He also caught hold of collar of Rakesh (P.W.3). Sunny gave a Kulhari blow on the shoulder of Rakesh (P.W.3). The injury started bleeding. Kalu s/o Jai Chand gave him kick and fist blows. Vinod s/o Om Prakash also gave blows. Rakesh (P.W.3) had returned to his house and informed the incident to his father Birdhi Chand (P.W.5). Birdhi Chand (P.W.5) advised him not to pick up the fight and assured him that he will go to the house of Roshan Lal to sort out the matter. When Birdhi Chand (P.W.5) along with Rakesh (P.W.3) were going towards the house of Roshan, on the way Prakash who was son of elder brother of Birdhi Chand also met him. Seeing the three persons coming, Roshan Lal came out of his house armed with a sword and gave a sword blow on the face of Prakash. He caused another injury with sword on the neck of Prakash. Roshan gave a third sword blow in the abdomen of Prakash. Prakash fell on the ground. When Birdhi Chand (P.W.5) came forward to save Prakash, Roshan Lal also gave a sword blow on the head of Birdhi Chand (P.W.5). Meanwhile, Sunny s/o Roshan, Bunty nephew of Roshan and son of Prakash, Deepu s/o Suresh, Sunil s/o Suresh, Vinod s/o Om Prakash came armed with wooden sticks, iron rod and knife. Family members of Rakesh (P.W.3), Prakash and Birdhi Chand (P.W.5) also came forward to save them. Then Bunty and Sunil caused injuries with iron rod to Rajesh. Roshan also caused sword blow on the head of Birdhi Chand (P.W.5). Sunny caused injury with iron rod on the hand of Rajesh. Sita (P.W.25) and Munni Devi (P.W.12) being aunt and mother of Rakesh (P.W.3) came forward. Vinod caused them injury with iron rod. Raju s/o Prakash caused injury to Rajendra s/o Mohan. Jai Chand s/o Chhotu and Deepu caused injuries with iron rod. Meanwhile, Alam Chand (P.W.16), Mahendra s/o Chhotu (P.W.15) also came at the spot. Dharmendra s/o Chhotu, Raju s/o Devendra, Murli s/o Madan, Bhaiya s/o Madan, Deepak s/o Jagdish also caused injuries with iron rod. Everybody ran here and there. Residents of the Mohallah had witnessed the

occurrence. Condition of Prakash due to injuries received became precarious. He was taken to Yagya Narain Hospita from where he was referred to Hospital at Ajmer. Prakash died on the way.

9. From a perusal of the above written report (Ex.P.4) on the basis of which formal FIR (Ex.P.5) was registered, it is apparent that there is no mention made by the complainant regarding the injuries suffered by the accused.

10. As per written report (Ex.P.4) occurrence had taken place in four parts:

(a) Firstly, Sunny had teased Saraswati (P.W.11);

(b) Secondly, to complain against the conduct of Sunny, Rakesh (P.W.3) had gone to the house of Roshan Lal father of Sunny, there Rakesh (P.W.3) was given push by Roshan Lal and caused injuries by Sunny with a Kulhadi on the shoulder. Thereafter, Kalu and Vinod had given him kick and fists blows;

(c) Third part of the occurrence is that Rakesh (P.W.3) came and made complaint to his father (P.W.5). At that stage, Birdhi Chand (P.W.5) accompanied by Rakesh (P.W.3) and Prakash deceased had gone to the lodge protest to the house of Roshan. Roshan came armed with a sword and caused injuries to Prakash and Birdhi Chand;

(d) Fourth part of the occurrence commenced after Roshan had caused injuries on the person of Prakash deceased and Birdhi Chand (P.W.5). Thereafter family members of Prakash deceased, Birdhi Chand (P.W.5) and Rakesh (P.W.3) arrived at the spot and other relations of Roshan also came there. At that stage as per the FIR, number of relations of Roshan principal accused had caused injuries to relations of deceased Prakash.

11. A perusal of the above written report (Ex.P.4) leading to registration of FIR, reveal that except Roshan Lal nobody had caused injuries to Prakash.

12. Now, we shall notice medical evidence.

13. Dr. Man Mohan Sharma (P.W.4) on 19.1.2005 being a member of the Medical Board had conducted autopsy on the dead body of Prakash deceased. He had found eight injuries on his person. Injuries No.4 and 8 were caused with blunt weapon and remaining all injuries were with incised weapon. Injury No.1 was an incised injury on the right cheek, injury No.2 was incised injury near the right eyebrow, injury No.3 was on right ear, injuries No.5, 6 and 7 were incised injuries caused on abdomen, injury No.4 was contusion on right clevical bone and injury No.8 was a bruise on the right foot. As per opinion of the Medical Board, cause of death was hemorrhagic shock due to multiple ante mortem injuries inflicted on the body of deceased.

14. Dr. Man Mohan Sharma (P.W.4) on 18.1.2005 had examined all the persons injured on the side of complainant and accused. He noticed three injuries on the person of Birdhi Chand (P.W.5), out of which injuries No.1 and 2 were incised injuries on head skin deep and injury No.3 was contusion on upper lip.

15. This witness also examined Sita (P.W.25) and found one contusion on back of her head.
16. Rajendra (P.W.8) was also examined by Dr. Man Mohan Sharma (P.W.4) and he had found three blunt injuries on the person of Rajendra (P.W.8).
17. The said Doctor had also examined Mahendra Kumar (P.W.15) and found three injuries on his person out of which injury No.1 was incised and injuries No.2 and 3 were blunt injuries.
18. On the person of Rakesh (P.W.3), Dr. Man Mohan Sharma (P.W.4) had found one incised injury on his shoulder.
19. On the person of Rajesh, Dr. Man Mohan Sharma (P.W.4) had found three injuries out of which injuries No.1 and 2 were incised injuries on the forehead, injury No.3 was a blunt injury.
20. Dr. Man Mohan Sharma (P.W.4) also examined Alam Chand (P.W.16) and had found two incised injuries on his head.
21. This witness also examined four accused Bunty, Jai Chand, Sunny and Vinod.
22. On the person of Bunty, the Doctor had noted five injuries vide Exhibit-D10/A. Injury No.1 was incised injury on occipital, injury No.2 was on the face and injury No.3 was lacerated wound.
23. This witness also examined Jai Chand vide Exhibit-D11/A and found two injuries out of which injury No.1 was on forehead.
24. Dr. Man Mohan Sharma (P.W.4) also noticed one injury on the neck of Sunny s/o Roshan Lal and one injury on the person of Vinod s/o Om Prakash vide Exhibit-D12/A and Exhibit-D13/A respectively.
25. It is to be noted that except injuries on the person of Prakash which had proved fatal, all injuries suffered on the side of complainant namely Rakesh (P.W.3), Birdhi Chand (P.W.5), Rajesh (P.W.6), Rajendra Kumar (P.W.8), Mahendra Kumar (P.w.15), Alam Chand (P.W.16), Smt. Sita Devi (P.W.25), are simple in nature. Similarly all the four accused namely Sunny, Bunty, Jai Chand and Vinod had also suffered simple injuries in the occurrence, even though some of the accused had suffered injuries on the head.
26. Prosecution in all have examined thirty-one witnesses. We have already named the injured witnesses examined by the prosecution.
27. Besides above injured witnesses, Saraswati (P.W.11) was examined regarding motive and Munni Devi (P.W.12) mother of the complainant deposed regarding the occurrence. Jai Chand (P.W.1) and Ramdhan (P.W.2) have attested the memos regarding lifting of blood stained soil and simple soil from the spot.
28. Madhu Sudan Verma (P.W.7) had taken photographs of the spot.

29. Head Constable Nand Kishore (P.W.9) was posted as In-charge of Malkhana and had deposed regarding various articles deposited in the Malkhana.

30. Lal Chand (P.W.13) and Madan Lal (P.W.14) had attested the site plan and memos regarding recovery of blood stained clothes.

31. Shiv Lal (P.W.17), Gopi Chand (P.W.18), Ravikant (P.W.19), Bunt Kumar (P.W.23) have witnessed the recovery of weapon from fifteen accused sent for the trial.

32. Mohan Lal (P.W.10) proved on record the school register of Ashish s/o Roshan Lal.

33. Prabhu Ram (P.W.20) and Ram Das (P.W.21) had attested various memos regarding taking of photographs. They have also witnessed the inquest.

34. Ram Prasad (P.w.22) is witness of handing over of the dead body.

35. Constable Udai Bhan (P.W.24), Mahesh Kumar (P.W.26), Moti Lal (P.W.31) had attested arrest memos of the accused.

36. Shri Setha Ram (P.W.30) after registration of the case had carried initial investigation and remaining investigation was carried by Ram Singh (P.W.29).

37. Thereafter, statements of the accused were recorded under Section 313 Cr.P.C. They had pleaded innocence.

38. The present case hinges upon the testimony of injured eye-witnesses. Witnesses in court have made departure from the initial version which had surfaced in the written report leading to the registration of FIR. The witnesses in order to implicate all the accused made a deviation from the earlier part of investigation and attributed injuries on the person of Prakash deceased to other accused also. In the FIR all injuries on the person of Prakash deceased were attributed to Roshan Lal accused. Furthermore, none of the injured witness or eye-witness Munni Devi (P.W.12) have explained the injuries on the person of accused. In the FIR also complainant party is totally silent regarding the injuries suffered by the accused party.

39. Rakesh (P.W.3) in court stated as under:-

"eSaus >xM+s ds nkSjku iqfyl dks dksbZ Qksu ugha fd;k Fkka ;g dguk xyr gS fd bl >xM+s esa dqN eqfYTEku dks Hkh pksVsa vk;h Fkh tks fd gekjs }kjk igqapkbZ xbZ gksA caVh vfHk;qDr ds flj esa /kkjnkj gfFk;kj ls ,oa "kjhj ds vU; Hkkxksa ij lfj;ksa dh pksVsa vk;ha gks rks eq>s irk ugha geus ugha igqapk;hA

40. Birdhi Chand (P.W.5) in court has stated that the accused had suffered injuries from their own weapons. He stated, "Lor dgk fd eqfYTEku ds gfFk;kjksa ls gh eqfYTEku dks pksV yxh Fkh eSaus ;g fy[kk;k Fkk fd eSaus NqMkus dk iz;kl fd;k IHkh dks vLriky ysdj x;h ;g eSus izn"KZ and Mh -15 ds vkbZ ts Hkkx esa ;g ckr fy[kk;h Fkh A

41. Rajesh (P.W.6) denied the suggestion made to him regarding the injuries caused to the accused. It will be apposite to reproduce the following part of his cross-examination:-

";g dguk xyr gS fd >xM+s ds le; izdk"k ds ikl NksVh ryokj] jkts"k ds ikl esjs ikl ikbZi vkSj foDdh ds ikl lfj;k gksA ;g dguk xyr gS fd izdk"k us vkseizdk"k ds flj ij ikbZi dh pksV ekjh gksA ;g dguk xyr gS fd jkds"k us Nqjs dh caVh ds pksV ekjhA ;g dguk xyr gS fd izdk"k us vkseizdk"k ds flj esa ryokj dh pksV ekjhA ;g dguk xyr gS fd izdk"k us t;pan ds flj ij Hkh ryokj dh pksV ekjhA ;g dguk xyr gS fd foDdh us luh ds flj ij xjnu ij pksV ekjh gksA ;g dguk xyr gS fd geus eqyfteku ij geyk mudks tku ls ekjus dh pksVsa igqapkbZ gksA ;g dguk lgh gS fd blh eqdnes esa eqyfteku ds pksVsa igqapkus dk eqdnek py jgk gS ijarq ;g eqdnek gekjs mij >wBk py jgk gSA

42. Rajendra Kumar (P.W.8) deposed, "geis bl >xM+s esa eqyfteku ds pksVsa ugha igqapkbZ ge ij >wBk eqdnek py jgk gSA

43. Munni Devi (P.W.12) in cross-examination testified as under:-

">xM+s ds ckn ge vius ?kj ugha vk;s gedks iqfyl okys vLirky ys x;s FksA bl >xM+s esa eqyfteku ds Hkh pksV vk;h gksaxhA Lor% dgk fd gekjs ikl gfFk;kj ugha FksA

44. By laying much stress on the above part of evidence reproduced by us, Shri R.K. Mathur learned senior counsel appearing along with Shri Peyush Nag on behalf of the accused-appellants has contended that in the present case the witnesses are not truthful, they have suppressed the true genesis and origin of the occurrence and non-explanation of the injuries on the person of accused should be construed as fatal to the prosecution.

45. It is further contended that since Rakesh (P.W.3) had gone to lodge a protest to the house of Roshan Lal and since there he was caused injuries. Thereafter, the complainant party being aggrieved armed with weapons had gone to the house of accused, where they opened assault and the accused had caused injuries in self defence. Thus, it is urged by counsel for the defence that the accused acted in complete right of self defence as complainant party came in front of the house of accused in order to take revenge of injuries caused to Rakesh (P.W.3). Thus, complainant party had picked up a fight.

46. We are not convinced with the arguments raised before us.

47. It is true that the complainant party had not explained the injuries on the person of four accused namely Sunny, Bunty, Jai Chand and Vinod, but as already stated by us, injuries on the person of these four accused are simple in nature, even though two accused had suffered simple injuries on head. To us, written report (Ex.P.4) contains spontaneous version. Occurrence had taken place on 18.1.2005 between 7.30 to 8.00 PM, written report was lodged at 9.15 PM. We will lend credence to the written report (Ex.P.4) leading to registration of FIR by holding that subsequently while appearing in court, the witnesses in order to

inflate the number of accused and aggravate the role of accused had committed a blemish. Therefore, by sifting grain from the chaff we will remove the embellishments which have occurred in the prosecution case and rely upon the written report (Ex.P.4) on the basis of which the FIR (Ex.P.5) was registered.

48. As stated by us earlier, to make protest over the conduct of Sunny who had eve teased Saraswati (P.W.11), Rakesh (P.W.3) had gone to the house of Roshan Lal where he was given a push, kick and fist blows and incised injury on his shoulder. He returned to his house and informed his father Birdhi Chand (P.W.5). Birdhi Chand (P.W.5) along with Rakesh (P.W.3) and Prakash deceased had gone to the house of accused. As per written report (Ex.P.4), Roshan Lal had caused all injuries to Prakash. There is only one injury on the person of Rakesh (P.W.3) which he had received in earlier part of occurrence when he went to the house of Roshan Lal. Out of eight injuries on the person of Prakash deceased noted in the post-mortem, six injuries are incised injuries. They have been caused by Roshan Lal with a sword. Injury No.4 which is a fracture of cleical bone and injury No.8 a bruise on foot of Prakash deceased can be result of fall. Therefore, it is Roshan Lal who had caused all the injuries to deceased Prakash and also had given a blow with sword on the person of Birdhi Chand (P.W.5) in the third part of the occurrence. All other persons from the side of complainant namely Rajesh (P.W.6), Rajendra Kumar (P.W.8), Munni Devi (P.W.12), Mahendra Kumar (P.W.15), Alam Chand (P.W.16), Sita Devi (P.W.25) arrived at the spot, later when injuries had already been caused to Prakash deceased, one injury to Birdhi Chand (P.W.5). They were caused injuries after fatal injuries have been caused by Roshan Lal to Prakash deceased. These injuries have been caused in a melee by other accused who belonged to the family of Roshan Lal as their houses are situated near to the place of occurrence. After Roshan Lal had caused injuries to Prakash and Birdhi Chand (P.W.5), persons of both sides were attracted to the spot, after hearing noise, then they clashed and caused simple injuries to each-other. Since accused and complainant party arrived at the spot after the injuries were caused to Prakash deceased by Roshan Lal and thereafter had clashed with each-other, we are of the view that it cannot be held that the accused constituted unlawful assembly.

49. We have already dissected the occurrence in four parts. First part being when Saraswati (P.W.11) was teased by Sunny; second part being when Rakesh (P.W.3) went to the house of Roshan, Rakesh (P.W.3) was pushed out of the house and was caused a solitary incised injury on his shoulder; third part of the occurrence is when Roshan Lal caused injuries to Prakash and Birdhi Chand (P.W.5) who were coming to the house of Roshan principal accused to lodge protest; and fourth part is when all other accused except Roshan Lal and Sunny were attracted at the spot along with other witnesses except Rakesh (P.W.3), Prakash deceased and Birdhi Chand (P.W.5). At that stage both sides caused injuries to each other. Therefore, after the fatal injuries have been caused by Roshan Lal to Prakash deceased and a sword injury to Birdhi Chand (P.W.5), fourth part of occurrence took place. Thus, all the accused except Roshan Lal can

only be held responsible for the injuries caused by them falling within the ambit of Sections 323 and 324 IPC.

50. Therefore, we have no hesitation to hold that Roshan Lal accused by giving repeated blows had caused multiple injuries to Prakash and he alone is responsible for causing death of Prakash and simple incised injuries to Birdhi Chand (P.W.5) in the third part of the occurrence. It is later remaining accused and witnesses of the complainant were attracted to the spot fourth part of the occurrence had taken place and at that stage other accused had caused injuries to Birdhi Chand (P.W.5), Rajesh (P.W.6), Rajendra Kumar (P.W.8), Munni Devi (P.W.12), Mahendra Kumar (P.W.15), Alam Chand (P.W.16) and Sita Devi (P.W.25). Injuries on all these persons are simple in nature.

51. As a result of above discussion, we uphold the conviction of accused-appellant Roshan Lal s/o. Chhotu Lal for offence under Section 302 and 324 IPC. We acquit him of offences under Sections 323 and 148 IPC. We also affirm the sentence awarded to Roshan Lal for offence under Section 302 and 324 IPC by the trial court. So far remaining accused Sunil Kumar @ Sunit s/o Suresh Kumar, Rajulal s/o Prakash, Buntty s/o Prakash Chand, Amit @ Deepu s/o Suresh, Vinod s/o Om Prakash, Jai Chand s/o Chhotulal are concerned, we acquit them of offences under Sections 302/149 and 148 IPC. We uphold their conviction for offences under Sections 323 and 324 IPC and affirm their sentence awarded on these counts by the trial court. We also uphold conviction of Rakesh Kumar s/o Prakash Chand, Raju s/o Devendra, Murlidhar s/o Madanlal, Deepak Kumar s/o Jagdish Kumar, Rakesh @ Bhaiya s/o Madanlal and Dharmendra Kumar s/o Chhotulal for offences under Sections 323 and 324 IPC. They are acquitted of offence under Section 148 IPC. We affirm the sentence awarded to them on these two counts. Sentence awarded to the different appellants on two counts shall run concurrently and they shall also be entitled to benefit of Section 428 Cr.P.C.

52. In view of above, present appeal stands disposed of.