
(2010) 03 AHC CK 0134

In the Allahabad High Court

Case No : Criminal Appeal No. 2623 of 2008 Connected With Criminal Appeal No. 2624 of 2008 And Criminal appeal No. 2420 of 2008

Ram Sut Yadav @ Lavkush Yadav and others

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 12-03-2010

Acts Referred:

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

Citation : (2010) 03 AHC CK 0134

Hon'ble Judges : Poonam Srivastava, J and Subhash Chandra Agarwal, J

Final Decision : Dismissed

Judgement

S.C. Agarwal, J.—Three different appeals have been filed against the judgment and order dated 29.3.2008 passed by Additional Sessions Judge, Court No.3, Mau in Sessions Trial No.41 of 1994.

2. All the three appeals, we proceed to decide together by a common judgment. Appellants Yudhisthir alias Dharm Raj Yadav, Ram Sut Yadav alias Lavkush Yadav, Ram Avtar Yadav, Bhikhari Yadav and Sukhari Yadav have been convicted under Sections 147, 307/149, 302/149 I.P.C. and each of them was sentenced to undergo rigorous imprisonment for one year under Section 147 I.P.C., rigorous imprisonment for ten years with a fine of Rs.5000/ with default clause under Section 307/149 I.P.C., imprisonment for life with a fine of Rs.10, 000/ with default clause under Section 302/149 I.P.C. Appellants Yudhisthir alias Dharm Raj Yadav, Ram Sut Yadav alias Lavkush Yadav, Ram Avtar Yadav and Bhikhari Yadav were further convicted under Section 148 I.P.C. and were sentenced to undergo rigorous imprisonment for two years each. All the sentences were ordered to run concurrently.

The incident took place on 28.12.1993 at 6:30 p.m. in Village Jawahirpur, P.S. Madhuban, District Mau. The F.I.R. (Exhibit Ka1) was lodged by the complainant Dharas Yadav (P.W.4) on the same day at P.S. Madhuban at 21:10 hours. Distance of police station from the place of occurrence is 12 kms.

3. The prosecution story, as unfolded in the F.I.R., is that the complainant side had a property dispute with accused Bhikhari Yadav. On 28.12.1993 at 6:30 p.m., the complainant Dharas Yadav (P.W.4), his father Manik Raj (deceased), brothers Jairam Yadav (P.W.5) and Jai Kishan were sitting at the door of their house around campfire. All the five appellants armed with country made pistols came there and opened fire. Yudhisthir alias Dharm Raj Yadav caused firearm injuries to Manik Raj, Ram Sut Yadav alias Lavkush Yadav and Bhikhari Yadav caused firearm injuries to Jai Kishan and Ram Avtar Yadav caused firearm injuries to Jairam (P.W.5). The complainant and his brothers raised alarm. Shriram (P.W.1), Jang Bahadur (P.W.2), Noorul Huda (P.W.6) and others reached on the spot and saw the incident in the light of torches, campfire and moon light. The accused persons ran away towards south. Manik Raj died on the spot. The complainant took his injured brothers Jairam and Jai Kishan to P.S. Madhuban, got the F.I.R. (Exhibit Ka1) scribed by Muntazir Ahmed (P.W.3) and gave the same at the police station Madhuban at 21:10 hours, on the basis of which crime no.661 of 1993 under Sections 147, 148, 149, 302, 307, 34 I.P.C. was registered against the appellants. Investigation of the case was handed over to S.I. Vasudeo Singh. He examined the injured witnesses, sent them for medical examination, went to the spot and conducted inquest proceedings on the dead body of Manik Raj in the night itself. Next day the investigation was taken over by S.H.O. Mritunjay Mishra (P.W.10). He obtained process under Sections 82 and 83 Cr.P.C. from the Magistrate and attached the movable property of the appellants, who were absconding. He recorded the statements of the witnesses and after completing the investigation, submitted chargesheet (Exhibit Ka17) against the appellants, as absconders.

Injured Jai Kishan and Jairam were taken to Primary Health Centre, Madhuban from where, after first aid, they were referred to Medical College, Gorakhpur for medico legal work and proper management.

Injured Jai Kishan Yadav was medically examined at Medical College Hospital, Gorakhpur on 29.12.1993 at 3:05 a.m. by Dr. V.K.D. Tripathi (P.W.9) and the following injuries were found on his person :

(i)Lacerated wound 12 cm. x 3 cm. x U.O. on the right side face started from 2 cm. away to lateral angle of right eye to backwards just above to right ear on the parietal region. Bleeding present.

(ii)Firearm wound (entry) 1 cm. x 1 cm. x U.O. on the left arm about 5 cm. above to left elbow joint at anterolateral aspect. Blackening and bleeding present.

(iii)Firearm wound 2 cm. x 2 cm. x U.O. on the left arm about 8 cm. above left elbow joint at posteromedial aspect. Bleeding present. (Exit)

(iv)Firearm wound 9 cm. x 7 cm. x U.O. on the right forearm about 2 cm. above to right wrist joint at anterolateral aspect. Blackening and bleeding present. All the muscles, veins and bones exposed. Bleeding present. Blackening present.

4. In the opinion of the Doctor, injury no.1 was caused by hard and blunt object and the remaining injuries were caused by firearm. All the injuries were kept under observation. Xray was advised. The injuries were fresh. Copy of injury report is Exhibit Ka8.

Injured Jairam (P.W.5) was medically examined at Medical College Hospital, Gorakhpur on 29.12.1993 at 3:45 a.m. by Dr. V.K.D. Tripathi (P.W.9) and the following injuries were found on his person :

(i) Firearm wound (entry wound) 1 cm. x 1 cm. x U.O. on the base of the penis at the anterolateral aspect of right side of the base of the penis. Blackening and bleeding present.

(ii) Firearm wound (exit wound) 2 cm. x 2 cm. x U.O. on the lower lateral part of right side scrotum. Bleeding present.

(iii) Firearm wound 2 cm. X 2 cm. X U.O. Just at the middle of the right inguinal region just attached to injury no.2 on the right thigh. Bleeding present. Injury is due to penetration after the exit from the injury no.2.

In the opinion of Dr. Tripathi, all the injuries of Jairam were caused by firearm, were kept under observation. Xray was advised. Duration was fresh. Copy of injury report is Exhibit Ka9.

As per the opinion of Doctor, injuries of Jai Kishan and Jairam could be caused on 28.12.1993 at 6:30 p.m. by country made pistols.

Autopsy on the dead body of deceased Manik Raj was conducted by Dr. M.P. Chauhan of District Hospital, Azamgarh on 29.12.1993 at 3:00 p.m. Postmortem report is Exhibit Ka18. Dr. Chauhan was not examined during trial, but the formal proof of postmortem report was dispensed with by learned counsel for the accused. According to the postmortem report, the age of the deceased was about 65 years and in the opinion of the doctor, the deceased died about one day before from the time of conducting postmortem examination. The following antemortem injuries were found on the dead body of Manik Raj :

(i) Firearm wound of entry 2 cm. x 2 cm. x bone deep on lateral side of neck 4 cm. above to middle of left clavicle. Blackening and tattooing in area of 5 cm. x 4 cm. present.

(ii) Firearm wound of exit 4.4 cm. x 4 cm. x through and through on right occipital region 6 cm. posterior to right ear. Margins lacerated.

(iii) Abrasion 3 cm. x 2 cm. left top of shoulder.

On internal examination, occipital bone was found fractured. Membrane were lacerated. There was subdural hematoma in the brain. Base was fractured. First vertebra was fractured. There was damage to spinal cord. Stomach was empty. There was faecal matter and gases in the intestines. Cause of death was hemorrhage and shock due to antemortem injuries.

Learned Sessions Judge framed the charge under Sections 147, 307/149, 302/149 I.P.C. against all the appellants. Additional charge under Section 148 I.P.C. was framed against appellants Yudhisthir alias Dharm Raj Yadav, Ram Sut Yadav alias Lavkush Yadav, Ram Avtar Yadav and Bhikhari Yadav. The appellants denied the charge and claimed to be tried.

The appellants in their statements under Section 313 Cr.P.C. denied the prosecution allegations and claimed that they had been falsely implicated in the case due to enmity with Station Officer Incharge of P.S. Madhuban.

5. The prosecution examined eleven witnesses in this case. Shriram (P.W.1), Jang Bahadur (P.W.2), Dharas Yadav (P.W.4), Jairam (P.W.5) and Noorul Huda (P.W.6) were examined as witnesses of fact. Muntazir Ahmed (P.W.3) is the scribe of the F.I.R. Dr. Bhaskar Rai (P.W.7) had given first aid to the injured at P.H.C., Madhuban and referred both the injured to Medical College, Gorakhpur. Ram Suchit Yadav (P.W.8) was the Head Moharrir at P.S. Madhuban on 28.12.1993 at 21:10 hours and had prepared chick report Exhibit Ka4 and G.D. Entry Exhibit Ka5 and had also prepared letters to the Medical Officer for examination of the injured. Dr. V.K.D. Tripathi (P.W.9) had medically examined the injured Jai Kishan and Jairam. Mritunjay Mishra (P.W.10) was the second Investigating Officer who submitted chargesheet against the appellants as absconders. First Investigating Officer Vasudeo Singh had died and Constable Radhey Shyam Yadav (P.W.11) was examined as secondary evidence to prove various memos and inquest papers prepared by S.I. Vasudeo Singh.

Out of five witnesses of fact, P.W.1, P.W.2, P.W.4 and P.W.6 turned hostile and did not support the prosecution case, which rested on the evidence of Jairam (P.W.5) only.

6. The appellants had also examined one witness Ram Janam Yadav (D.W.1) to contradict the statement of Jairam (P.W.5), who had stated that after being injured he went to the house of Ram Janam Yadav. The defence witness stated that Jairam did not fell down at his doorsteps, but fell down at the doorsteps of his own house and became unconscious. He further stated that he did not chase the assailants and did not see the incident.

Relying upon the prosecution version and the evidence adduced on behalf of the prosecution, the learned trial Court convicted and sentenced the appellants as aforesaid.

We have heard Sri Viresh Misra, learned senior advocate assisted by Sri Jai Singh and Sri Shailesh Kumar Tripathi, learned counsel for the appellants, Sri Ram Milan Dwivedi, learned A.G.A. appearing for the State and perused the records.

7. Learned counsel for the appellants submitted that there was no motive for the appellants to commit the crime. The appellants had strong enmity with S.I. Vasudeo Singh and S.H.O. Mritunjay Mishra (P.W.10). Appellant Yudhisthir alias Dharm Raj Yadav had filed a criminal complaint on 14.12.1993 under Sections

440, 382, 411, 506 I.P.C. and 4/10 Van Sanrakshan Adhiniyam against Mritunjay Mishra (P.W.10), Vasudeo Singh and other police personnels, as they had forcibly cut and stolen the trees belonging to the appellants and due to this reason the appellants were falsely implicated in this case under pressure of Mritunjay Mishra and Vasudeo Singh. It was further submitted that all the witnesses of fact, except Jairam (P.W.5), turned hostile, as they were not willing to give false evidence against the appellants at the instance of police. Learned counsel for the appellants submitted that Jairam (P.W.5) had criminal antecedents and there were a large number of criminal cases pending against him and he was under the thumb of S.H.O. Mritunjay Mishra and S.I. Vasudeo Singh and he, though an injured witness, was not a wholly reliable witness. The statement of P.W.5 has been criticized on various grounds. It was contended that the statement of Jairam (P.W.5) is not corroborated by any other evidence. The F.I.R. has not been proved and the same was scribed by Muntazir Ahmed (P.W.3) on the dictation of the S.H.O. The medical evidence does not support the prosecution case. Injury no.1 of Jai Kishan has not been explained by the prosecution. The injured were medically examined after 3:05 a.m. and 3:45 a.m. on 29.12.1993 and the injuries were found fresh whereas the incident took place at 6:30 p.m. the previous evening. It was further submitted that enmity of the S.H.O. Mritunjay Mishra (P.W.10) is evident from the fact that the incident having taken place on 28.12.1993, proclamation under Section 82 Cr.P.C. and attachment warrants under Section 83 Cr.P.C. against all the appellants were obtained by him from the Magistrate concerned on 5.1.1994 and the properties of the appellants were attached on 6.1.1994 i.e. within 9 days from the incident, which was gross misuse and abuse of process of law. It was contended that it was a night incident and there was no source of light and it was not possible for the witnesses to identify the culprits.

8. On the other hand, learned A.G.A. supported the judgment passed by the trial Court and submitted that the statement of injured witness Jairam (P.W.5) alone is sufficient to prove the charge against the appellants and the statement of Jairam is supported by medical evidence and the F.I.R. and no interference with the judgment of conviction is required.

To appreciate the submission advanced by learned counsel for the appellants and learned A.G.A., we deem it fit to have a glance at the evidence on record. Shriram (P.W.1), Jang Bahadur (P.W.2) and Noorul Huda (P.W.6) are alleged to be the independent witnesses of the occurrence, but they have not supported the prosecution case and stated that they did not witness the incident.

9. The complainant Dharas Yadav (P.W.4) stated that at the time of incident he was not in the village, but was at Delhi. The witnesses had told him that the incident was committed by the appellants, but he himself had not witnessed the incident. He did not lodge the F.I.R. He was declared hostile by the prosecution and was crossexamined wherein he stated that he reached the police station after two days. At that time his brothers were at Gorakhpur Hospital. He denied

his signatures on the F.I.R. Cremation of the dead body of his father had already taken place before he reached the village. His brother Jai Kishan had died due to illness. He does not know where his another brother Jairam is living at present. He had last met Jairam about ten years ago. He had not admitted the injured Jairam and Jai Kishan at Medical College, Gorakhpur. When crossexamined by the defence, Dharas Yadav stated that Jairam (P.W.5) had various criminal cases against him. He has no fear from the appellants, but has fear from unknown persons, who had committed the incident.

Muntazir Ahmed (P.W.3) is the scribe of the F.I.R., who deposed that he wrote the F.I.R. (Exhibit Ka1) at P.S. Madhuban on the dictation of S.H.O. Mritunjay Mishra (P.W.10). He was declared hostile by the prosecution. In crossexamination, he denied that the F.I.R. was written on the dictation of Dharas Yadav, but asserted that it was recorded on the dictation of Daroga.

Jairam (P.W.5) is the only eyewitness who supported the prosecution case, as narrated in the F.I.R.

10. Sri Viresh Misra submitted that the motive assigned by the prosecution is very weak and could not be a sufficient ground for the appellants to commit murder of Manik Raj and to cause injuries to Jairam and Jai Kishan. As per the F.I.R., the complainant party had a dispute with accused Bhikhari over abadi land. The complainant Dharas Yadav did not utter a single word regarding enmity. Only Jairam (P.W.5) stated that Bhikhari was his real pattidar and before the incident, there was some dispute regarding abadi land. No details of the dispute have been given either in the F.I.R. or in the statement of Jairam (P.W.5). It is also not known whether any quarrel or incident took place earlier on account of this alleged enmity. In these circumstances, the alleged land dispute does not appear to be sufficient motive for the crime. On the other hand, as alleged by learned counsel for the appellants, both the investigating officers of this case had strong enmity against the appellants, as two weeks before the incident, accusedappellant Yudhisthir alias Dharm Raj Yadav had lodged a criminal complaint against Mritunjay Mishra (P.W.10) S.H.O., P.S. Madhuban, S.I. Vasudeo Singh, the first investigating officer and six other police constables. This criminal case was filed on 14.12.1993 and was registered in the Court of Chief Judicial Magistrate, Mau as criminal case no.6807 of 1993, but was later transferred to the Court of Judicial Magistrate, Mau and was registered as criminal case no.1134 of 1994. A certified copy of criminal complaint has been filed before the trial court. According to the complaint, the accused named in the complaint had cut away two sheesham trees belonging to the father of appellant Yudhisthir alias Dharm Raj Yadav on 4.11.1993 at 11:00 a.m. Appellants Yudhisthir alias Dharm Raj Yadav, Ram Avtar and Ram Naresh, father of appellants Yudhisthir alias Dharm Raj Yadav and Ram Sut Yadav were witnesses of that incident. The defence has filed certified copies of other documents also, but none of the documents filed by defence were marked Exhibits by the trial court though these documents were certified copies of judicial records. The fact regarding this

complaint was put to Mritunjay Mishra (P.W.10) in crossexamination, but he feigned ignorance about the complaint case, which was filed under Sections 440, 382, 411, 506 I.P.C. and 4/10 Van Sanrakshan Adhiniyam. Filing of criminal complaint on behalf of accused Yudhisthir alias Dharm Raj Yadav, in which his father and appellant Ram Avtar were witnesses, would go to show that S.H.O. Mritunjay Mishra (P.W.10) and S.I. Vasudeo Singh, both the investigating officers of this case, had strong enmity with the appellants and there was sufficient motive for them to falsely implicate the appellants in this case. The fact that Sri Mritunjay Mishra (P.W.10) obtained orders under Section 83 Cr.P.C. from the Magistrate on 5.1.1994 and attached the property of the appellants on 6.1.1994, within 9 days from the date of incident, speaks volumes about the conduct of the investigating officer.

11. Another submission of Sri Viresh Misra is that the F.I.R. has not been proved to have been scribed at the dictation of the complainant Dharas Yadav and the whole prosecution case falls to the ground on this ground alone. We find sufficient merit in this submission. The complainant Dharas Yadav (P.W.4) stated that the F.I.R. was not lodged by him and it does not bear his signatures. He claimed that he was not present at the time of incident. The scribe of the F.I.R. Muntazir Ahmed (P.W.3) also turned hostile and stated that the F.I.R. was written by him at the police station Madhuban on the dictation of S.H.O. Sri Mritunjay Mishra. He was crossexamined by learned prosecutor wherein he stated that he works at a dispensary till 7:30 8:00 p.m. When he returned home from the dispensary, he came to know that firing had taken place at the house of Dharas Yadav. He went on the spot and thereafter went to the police station where he found the injured Jairam and Jai Kishan. It is obvious from the statement of this witness that the F.I.R. was not scribed in the village, but was written by Muntazir Ahmed (P.W.3) at the police station allegedly on the dictation of S.H.O. The complainant Dharas Yadav has clearly denied his signatures on the F.I.R. The prosecution has not led any evidence to show that the signatures on the F.I.R. belong to Dharas Yadav. Even Jairam (P.W.5) was not questioned by the prosecution on this point. He could have been asked to identify the signatures of his brother Dharas Yadav, but that was not done. There is nothing on record to show that F.I.R. bears the signatures of Dharas Yadav or that the same was scribed on the dictation of the complainant. On the other hand, the statement of Muntazir Ahmed (P.W.3) clearly shows that the F.I.R. was scribed at the dictation of S.H.O. Mritunjay Mishra, who had enmity with the appellants Yudhisthir alias Dharm Raj Yadav, Ram Sut Yadav alias Lavkush Yadav, their father Ram Naresh and appellant Ram Avtar Yadav. The possibility that the appellants were named in the F.I.R. at the instance of S.H.O. Mritunjay Mishra and S.I. Vasudeo Singh can not be ruled out. Since the F.I.R. has not been proved according to law and is a suspicious document, the whole case falls to the ground and no reliance can be placed on the same.

12. Sri Viresh Misra has criticized the evidence of Jairam (P.W.5) on the ground that he had criminal antecedents and a large number of criminal cases were

pending against him and he was under the thumb of both the investigating officers. Jairam (P.W.5) has admitted in crossexamination that his wife Phuleshwari Devi and brother Jai Kishan were sent to jail in a criminal case, but feigned ignorance that they were sent to jail, as three boxes containing 27 bombs were recovered from their possession. He further admitted that criminal cases relating to police stations Madhuban and Ghosi of District Mau and police stations Bhojpur and Ubhaon of District Ballia were pending against him though he claimed that they were false cases concocted by the police. He admitted that the cases relating to theft, recovery of stolen property, Explosive Act, 25 Arms act, attempt to murder and under Gangster Act were pending against him. He could not say whether there were 25 cases against him or 50 cases or more than 50 cases. He also admitted that Ram Avtar had filed a case crime no.366 of 1997 under Section 307 I.P.C., police station Madhuban, district Mau against him, Jai Kishan, Ram Bachan and Santosh Yadav. He, however, denied that Ram Bachan Singh used to supply Government ammunition to U.L.F.A. extremists.

13. Jairam (P.W.5), his wife Phuleshwari Devi and brother Jai Kishan had criminal background. There were a large number of criminal cases pending against Jairam (P.W.5). In these circumstances possibility of Jairam being under pressure of S.H.O. Mritunjay Mishra and S.I. Vasudeo Singh, against whom accused Yudhisthir alias Dharm Raj Yadav had filed a criminal complaint, can not be ruled out and Jairam can not be categorized as a wholly reliable witness. No doubt, Jairam is an injured witness and his presence at the spot can not be disbelieved, but the fact of his being injured only establishes his presence at the time of incident, but not his truthfulness. His evidence is to be scrutinized with great care and caution.

14. Jairam claims that after receiving firearm injury he did not fall down, but ran away to the house of Ram Janam, though Ram Janam (D.W.1) denies this fact in his statement. Jairam further claimed that he raised alarm and villagers assembled and all of them chased the accused for a distance of 500 meters till village Bahadurpur. We can not lose sight of the fact that Jairam suffered firearm injury in his groin and he could have hardly run away or chased the culprits for 500 meters. The theory of chasing away the culprits for 500 meters is simply a figment of imagination of the mind of P.W.5.

15. Jairam further stated that he sat with the dead body for about 1½ hours and S.H.O. along with the five policemen came in a jeep. S.H.O. seated him and Jai Kishan in the jeep and sent him to Medical College, Gorakhpur where he was admitted. He reached Gorakhpur Hospital at about 9:00 9:30 p.m. whereas Jai Kishan was for the first time examined by Dr. Bhaskar Rai (P.W.7) at P.H.C., Madhuban at 10:20 p.m. and both the injured were referred to the Medical College, Gorakhpur where Jai Kishan and Jairam were medically examined on 29.12.1993 at 3:05 a.m. and 3:45 a.m. Respectively by Dr. V.K.D. Tripathi (P.W.9). As per the statement of Jairam, police reached the village at about 8:00 p.m. whereas F.I.R. was lodged at 21:10 hours. This fact indicates that F.I.R. had

not been lodged by the time the police reached the place of occurrence and no explanation in this regard has been furnished by the prosecution. This fact further strengthens the submission of Sri Viresh Misra that F.I.R. was lodged on the dictation of S.H.O. Sri Mritunjay Mishra.

16. Injury no.1 of Jai Kishan is a lacerated wound 12 cm. x 3 cm. on the right side face. The prosecution has not explained as to how this injury was caused. As per the prosecution case, only firearm injuries were caused, but aforesaid injury of Jai Kishan could not have been caused by a firearm and there is no explanation on record to show as to in what manner Jai Kishan received this injury. Jairam (P.W.5) is also silent on this point. Jairam (P.W.5) further tried to improve the prosecution case by stating that injured Jai Kishan was subsequently murdered by accused persons. This statement of Jairam is contradicted by the complainant Dharas Yadav (P.W.4), who stated that Jai Kishan died of illness. The F.I.R. has not been proved and was scribed on the dictation of S.H.O. Mritunjay Mishra (P.W.10), who had strong enmity with the accused because of complaint lodged by appellant Yudhisthir alias Dharm Raj Yadav against him and other police personnels. Jairam (P.W.5) had criminal antecedents and there were a large number of criminal cases including the cases under Indian Explosive Act, Gangster Act and Section 307 I.P.C pending against him. We can, therefore, safely infer that Jairam (P.W.5) was under the thumb of S.H.O. Mritunjay Mishra and S.I. Vasudeo Singh, the investigating officers of this case. His medical examination 9 hours after the incident is also highly suspicious. This delay has also not been properly explained. In these circumstances, we have come to the conclusion that Jairam (P.W.5) can not be termed as a wholly reliable witness. His evidence is not supported by the F.I.R., as the F.I.R. has not been proved. Medical evidence also does not support his testimony, as there is no explanation of injury no.1 of Jai Kishan. Conduct of Jairam (P.W.5) in chasing away the culprits for about half kilometers despite groin injury can hardly be believed. In these circumstances, we do not find it safe to rely upon the uncorroborated testimony of Jairam (P.W.5) and learned Sessions Judge erred in placing reliance on the same.

In the light of above discussion, we are unable to rely upon the sole testimony of P.W.5 and have come to the conclusion that the conviction of the appellants recorded by the trial Court can not be sustained.

17. In view of what has been stated above, the appellants are entitled for benefit of doubt and we hold that the prosecution has not been able to establish its case by means of reliable evidence beyond reasonable doubt. The judgment of conviction recorded by the learned Sessions Judge has no legs to stand. The judgment and order dated 29.3.2008 passed by Additional Sessions Judge, Court No.3, Mau in Sessions Trial No.41 of 1994 State Versus Yudhisthir alias Dharm Raj Yadav and others is set aside. The appeal is accordingly allowed. Appellants Yudhisthir alias Dharm Raj Yadav, Ram Sut Yadav alias Lavkush Yadav, Ram Avtar Yadav and Bhikhari Yadav are in jail. They shall be set at liberty forthwith unless

wanted in some other case. Appellant Sukhari Yadav is on bail. His bail bonds are cancelled. He need not surrender.

Let a copy of this judgment along with the trial court record be sent to the Court concerned for compliance.