
(2009) 10 AHC CK 0074
In the Allahabad High Court

State of U.P.

APPELLANT

Vs

Ramesh and Others

RESPONDENT

Date of Decision : 22-10-2009

Acts Referred:

Penal Code, 1860 (IPC) — Section 147, 148, 149, 307, 324

Citation : (2009) 10 AHC CK 0074

Hon'ble Judges : Uma Nath Singh, J;S.N.H. Zaidi, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. We have heard learned Counsel for State and perused the trial court's judgment.

2. This Criminal Misc. Case for leave to appeal has been filed against a judgment dated 14-07-2009 passed by learned Additional Sessions Judge/FTC-1, Faizabad, in Sessions Trial Nos. 233 of 2007 in a case registered under Sections 147, 148, 307/149, 323/149 and 324/149 I.P.C. wherein learned Trial Judge has recorded conviction only under Sections 147, 323/149 and 148 and has recorded acquittal in respect of charges under Sections 324/149 and 307/149 I.P.C.

3. Learned Counsel for State has drawn our attention to the medical report as referred to in page Nos. 2 and 3 of the judgment. Though, there are eight injuries but all are lacerated wounds and, moreover, there is no medical opinion as to the nature of injuries. Besides, there is nothing on record to show that the injured had remained under prolonged medical treatment. The weapons used were country-made pistol, lathi and knife but since all the injuries are lacerated wounds, perhaps that were caused only with blunt weapon. That apart, there was some enmity between the parties as held by the trial court.

4. In view of all the aforesaid facts, the trial court has rightly held that the charges of Sections 307/149 and 324/149 could not be proved in the absence of any definite medical opinion as to the nature of injuries.

5. Moreover, the Apex Court in a number of decisions regarding interference with the judgment of acquittal has held that when two views are possible, a view taken in favour of the accused should be accepted as a probable view.

6. Thus, we do not find any merit in this application for leave to appeal. Thus, it stands dismissed.