

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.362 OF 2021

LALLAN YADAV

Appellant

VERSUS

STATE OF BIHAR

Respondent

O R D E R

1. This appeal challenges the judgment and order dated 22.08.2019 passed by the High Court of Judicature at Patna in Criminal Appeal (DB) No.411 of 1994.
2. Twelve persons were tried in Sessions Trial No.63/84 in the Court of 2nd Additional Sessions Judge, West Champaran, Bettiah, Bihar for having committed offences punishable under Sections 302/149, 147 and 307 of the Indian Penal Code, 1860 ("IPC" for short).
3. According to the First Information Report registered at the instance of one Baldeo Yadav (since deceased, he could not be examined in the trial) the incident occurred at about 6.00 p.m. on 07.02.1983 when 12 named persons in the First Information Report came with lathis and sticks and started beating his son Ramprit Yadav. During the course of this transaction, other persons also received injuries but the injuries suffered by Ramprit Yadav proved to be fatal.

4. According to the post-mortem report conducted by PW4 Dr. A.K. Mishra, following ante-mortem injuries were found on the body of deceased:

- "1. Haematoma of the size 1-3/2" x 1¼" on the occipital region of the scalp mostly on right side.
2. Bruise 3" x ½" on the lower portion of the back on right side.
3. Bruise 2¾" x ½" on the back in its middle.
4. Bruise 2½" x ½" on the front of chest wall on its right side."

5. PW3 Bandhu Yadav also suffered injuries which were to the following effect:

- "1. Swelling left lower arm 2" below elbow of the size 4" x 2" and x-ray needed.
2. Swelling left leg of calf muscle of the size 4" x 2"."

6. After due investigation, the aforesaid twelve persons were sent up for trial. During the course of the trial, PW1 Doma Yadav and PW2 Jeeta Yadav were examined as eye-witnesses. PW2 Jeeta Yadav deposed about the incident as under:

"My brother Ram Preet Yadav proceeded to block the cow and was taking it towards the 'Phatak'. On this Bagad whispered finish him, on which Bachan, Lalan, Bagad, Chotak, Govinda Ramadhar, Nanak, Madan, Jagan Nath, Budhram, Kashi and Prem Yadav reached. The said persons were having sticks. On coming Babban caught hold of waist of Ram Preet. Lalan hit on the head of Ram Preet with stick having iron handle. Due to hitting of stick, Ram Preet fell down and remaining persons were started beating him with stick. I went to save him, on which Madan Yadav, Budhram, Chotak, Nagender, Ramadhar, Nanak, Kashi and other persons started beating with legs and fists. Parma and Jagan Nath hit me with stick."

7. Considering the material on record, the Trial Court found that the case of the prosecution stood proved against all the accused. It, therefore, by judgment and order dated 17.08.1994 convicted the

accused of the offences punishable under Sections 147 and 302/149 IPC and awarded punishment of imprisonment for one year and sentence of life imprisonment under the aforesaid two counts. They were however acquitted of the charge under Section 307 of the IPC.

8. All the convicted accused being aggrieved, preferred Criminal Appeal (DB) No.411 of 1994 in the High Court.

9. The High Court was of the view that the prosecution was able to establish its case only against the present appellant and that the offence committed by him was punishable under Section 304 Part-I of the IPC and not under Section 307 of the IPC. The High Court then awarded him sentence of five years. All the other accused were acquitted of the charges levelled against them.

10. The acquittal of the other accused is not under challenge and has attained finality. Similarly, the conversion of offence committed by the appellant to that under Section 304 Part-I is also not under challenge. We are thus concerned in this appeal by the appellant with regard to the correctness of the conviction and sentence recorded against him under Section 304 Part-I of the IPC and whether he is entitled to acquittal like the other accused.

11. According to the medical evidence on record, the deceased had suffered four injuries and the first injury which was a head injury finally proved to be fatal. The deposition of PW2 as extracted hereinabove clearly associated the present appellant with the injury in question.

12. The circumstances on record including the fact that some other persons from the complainant side also suffered injuries are indicative of the nature of the assault. It is not even the case

of the accused that the assault developed on the spur of the moment.

13. In the circumstances, the assessment made by the High Court was perhaps on a liberal side but in any case, does not call for any interference in this appeal preferred by the appellant.

14. We, therefore, see no reason to interfere with the judgment and order passed by the High Court. Consequently, the instant appeal is dismissed.

.....J.
(UDAY UMESH LALIT)

.....J.
(S. RAVINDRA BHAT)

.....J.
(BELA M. TRIVEDI)

NEW DELHI,
DECEMBER 14, 2021

ITEM NO.105

COURT NO.2

SECTION II-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No.362/2021

LALLAN YADAV

Appellant(s)

VERSUS

STATE OF BIHAR

Respondent(s)

Date : 14-12-2021 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Appellant(s) Mr. Jata Shankar Mishra, Adv.
Mr. Krishna Ballabh Thakur, AOR

For Respondent(s) Mr. Abhinav Mukerji, AOR
Ms. Bihu Sharma, Adv.
Ms. Pratishtha Vij, Adv.
Mr. Akshay Shrivastava, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The criminal appeal is dismissed, in terms of the Signed Order placed on the file.

Pending applications, if any, also stand disposed of.

(MUKESH NASA)
COURT MASTER

(VIRENDER SINGH)
BRANCH OFFICER