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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.2209 OF 2024

MAN BAHADUR SINGH & ORS.

APPELLANT(S)

VERSUS

THE STATE OF UTTAR PRADESH

RESPONDENT(S)

O R D E R

1. The appellants before this Court faced trial for offences under Sections 302/147/149/323 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC') and have been convicted by the III-Additional Sessions Judge, Gonda in Sessions Trial No.386 of 1985 for offences under Sections 147,323/149 and 302/149 IPC and sentenced to life imprisonment. There were five accused in all who had filed an appeal before the High Court. During the pendency of the appeal before the High Court, out of the five accused namely, *Ayodhya Singh, Man Bahadur Singh, Lal Ji Singh, Bharat Singh and Bhanu Pratap Singh* two of them i.e. *Ayodhya Singh and Lal Ji Singh* passed away. For the remaining three accused (present appellants), the High Court has upheld conviction as well as the sentence. Now, the three appellants are before this Court.

2. The brief facts of the case are that on 19.04.1984 at about 2:00 pm. a fight took place between children belonging to two families which resulted in the family of the accused attacking one *Vishwanath Singh* (deceased), who was father of *Dabbu* (one of the children involved in the fight). The five accused named in the FIR,

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as stated above were armed with "lathis". In the fight, *Vishwanath Singh* (deceased) was the one who got injured and was taken to the hospital at Gonda by bullock cart where he was declared "dead". After the inquest, the post mortem was performed which notice the following antemortem injuries.

- "1. Lacerated wound 4.5 cm x 1cm x bone deep Rt side top of head 0.10 cm above Rt ear.
2. Lacerated wound 3.5cm x 1 cm x bone deep Lt. side head 7cm above Lt Ear.
3. Abrasion 2 cm x .5cm x 1 cm x bone deep Lt side head 7 cm above Lt Ear.
4. Abrasion 1.5 cm x 1cm - Medical aspect Left forearm 13 cm below Lt elbow.
5. Abrasion 1 cm x 1cm front part Right leg 0.3 cm below Rt knee. I"

3. Out of the above five antemortem injuries recorded in the postmortem report, injury Nos.1 and 2 seems to have been fatal and his skull was fractured which ultimately led to his death. There were eye witnesses to the incident, particularly three eye witnesses out of which PW-2 was the injured eye witness. They were put to a lengthy cross-examination in the trial but nothing has come which could cast any doubt on their testimony. Under these circumstances, the fact that the death is homicidal is not in question and the fact that the deceased died due to the injuries caused to him by the lathi blows inflicted by the appellants, has also been clearly established by the evidence placed by the prosecution.

4. We are only on the question of the findings of the Court as to whether this is a case of murder as it has been argued before us that under the facts and circumstances of the case and based on the

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evidence of the eye witnesses as well as the nature of injuries, it is a case of culpable homicide not amounting to murder as it would come under Exception 4 of Section 300 of the Indian Penal Code, 1860. The above provision reads as under:-

Exception 4.—Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner.

5. As it has come from the deposition of all the eye witnesses, this is not a case of pre-planned murder. The incident started with a fight between children for "mangoes" which unfortunately flared up when the adults of the families also got involved which ultimately led to the deceased-*Vishwanath Singh*, (the father of one of the children), being killed.

6. Considering the totality of the facts and circumstances of the case, the nature of the injuries (as according to the postmortem report itself, only injury Nos.1 and 2 on the skull causing the death of the deceased-*Vishwanath Singh*) and also considering the nature of the weapon used which is a lathi, we are inclined to accept the argument that it is indeed a case of culpable homicide not amounting to murder and it is not murder. Therefore, we convert the findings of Section 302 of IPC to that of Section 304 Part-I of IPC, and thereby convert the sentence of life imprisonment of all the appellants before us to that of seven years rigorous imprisonment along with a fine of Rs.25,000/- to be given by each appellant which shall be deposited by them within a period of eight

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weeks from today, if not already deposited. The amount so deposited shall be given to the victim's family, for which we fix the responsibility of District Magistrate Gonda, U.P. The Registry of this Court is also directed to communicate this order to the above officer for compliance.

7. In view of the above, the appeal stands disposed of.

8. All pending application(s) stand disposed of.

.....J.
[SUDHANSHU DHULIA]

.....J.
[AHSANUDDIN AMANULLAH]

New Delhi;
July 24, 2024

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ITEM NO.105

COURT NO.16

SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(S). 2209/2024

MAN BAHADUR SINGH & ORS.

APPELLANT(S)

VERSUS

THE STATE OF UTTAR PRADESH

RESPONDENT(S)

([WITHIN FIRST FIVE CASES]

IA No. 137158/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT

IA No. 137155/2023 - EXEMPTION FROM FILING O.T.)

Date : 24-07-2024 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SUDHANSHU DHULIA
HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

For Appellant(s) Mr. Jagjit Singh Chhabra, Adv.
Mr. Saksham Maheshwari, AOR

For Respondent(s) Mr. Namit Saxena, AOR

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

The appeal stands disposed of in terms of the signed order
which is placed on the file.

All pending application(s) stand disposed of.

(JAGDISH KUMAR)
COURT MASTER (SH)

(RENU BALA GAMBHIR)
COURT MASTER (NSH)