

Supreme Court of India

Ayub And Others vs State Of Uttar Pradesh on 4 November, 1993

Equivalent citations: AIR 1994 SC 1064, 1994 CriLJ 1219

Bench: K J Reddy, G Ray

ORDER

1. There are eight appellants in this appeal. During the pendency of the Appeal, Abdul Qaiyum is reported to have died. All the appellants were tried and convicted for offences punishable under Sections 147, 323/149 and 307/149 of the Indian Penal Code and were sentenced to one year's rigorous imprisonment under Section 147, nine months' rigorous imprisonment under Sections 323/149 and three years' rigorous imprisonment under Sections 307/149 of the Indian Penal Code. They preferred an appeal before the High Court. The High Court altered their convictions and convicted them under Sections 147, 323/149, Indian Penal Code and sentenced each one of them to one year's and nine months' rigorous imprisonment respectively and under Sections 325/149, Indian Penal Code for one and a half years' rigorous imprisonment.

2. The prosecution case is as follows:

Heta and Shri Ram are real brothers and Naubat and Ramchandra are sons of Heta. Qaiyum and Ayub are related as son and father. Kaley Khan and Sayeed are brothers of Ayub. Ram Prasad, Bhim Singh, Parmanand and Kanchhid are sons of Ram Chandra. There were civil disputes because of which there was enmity. On 1-2-1976, the day of occurrence, Gopal Singh engaged PW-5 and others to cut the standing crop. While so, the two accused, Ayub and Kaley Khan raised objections. After about 15 minutes all the eight accused in the case armed with lathis and dandas came there and inflicted injuries on the witnesses. A report was given at 10.45 a.m. The Sub-Inspector, PW-6, registered the crime and brought the injured persons to the hospital. The medical evidence shows that some of them received simple injuries and two of them received grievous injuries. The accused put forth a counter version stating that the prosecution party also inflicted injuries on two of the accused persons. That case was also investigated and a charge-sheet was laid.

3. The prosecution relied on the evidence of Gopal Singh, Rajveer and Ram Prasad who figured as eye-witnesses. They fully supported the prosecution case.

4. Dr. Zuberi examined the injured persons and one of the injuries inflicted on Ram Prasad was found on metacarpal bone. That is how the injury became grievous. No doubt, there were other four injuries on the head but they were all simple.

5. PW-5 is an injured witness and his presence at the scene of occurrence cannot be doubted. While the Courts below have relied on the evidence of the eye-witnesses and accepted the prosecution case, the High Court, however, having regard to the nature of the injuries came to the conclusion that no case under Sections 307/149, Indian Penal Code was made out and accordingly while upholding the convictions under Sections 147, 323/149 and 325/149, Indian Penal Code, set aside the convictions under Sections 307/149, Indian Penal Code, as stated above.

6. The occurrence is said to have taken place in the year 1976. Some of the appellants are more than 76 years of age and one of them has also died. In this context it must also be noted that some of the accused persons also received injuries.

7. Having regard to all these circum stances, we think that it is not a fit case where the appellants should be sent back to jail. In the result, while their convictions are affirmed the sentence is reduced to the period already undergone. However, we impose a fine of Rs. 200/- on each of the appellants in default of which they will be sentenced to one month's rigorous imprisonment.

8. The appeal is accordingly disposed of.