

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 189 OF 2009

LAKHAN & ORS.

Appellants

VERSUS

STATE OF MADHYA PRADESH

Respondent

O R D E R

1. This appeal is directed against the judgment and order passed by the High Court of Madhya Pradesh, Bench at Gwalior in Criminal Appeal No. 607/2000 dated 09.10.2007. By the impugned judgment and order, the High Court has confirmed the order of conviction and sentence passed by the IInd Additional Sessions Judge, Ashoknagar, District-Guna in Sessions Trial No. 339/1997 dated 07.08.2000.

2. The Appellants were charged and tried by the Sessions Court for the offences under Sections 147, 148, and Section 308 read with Section 149 of the Indian Penal Code, 1860 ("IPC" for short). After the trial, the Sessions Court has convicted the

appellants for the offences punishable under Sections 147 and 148 of the IPC, and awarded punishment of rigorous imprisonment for one year and a fine of Rs.200/- each and for the offences punishable under Section 308 read with Section 149 of the IPC, awarded punishment of rigorous imprisonment for three years and a fine of Rs.500/- each with a default clause.

3. Being aggrieved by the said conviction and sentence passed by the Sessions Court, the Appellants approached the High Court in Criminal Appeal No. 607 of 2000. The High Court, after considering the judgment and order passed by the Trial Court and further after re-appreciating the evidence on record, has come to the conclusion that the Sessions Judge has not committed any error whatsoever which would call for its interference. It is the correctness or otherwise of the said order which is the subject matter of this appeal.

4. Sh. Giri, learned senior counsel appearing for the Appellants, would submit that the Trial Court having come to the conclusion that the right of private defence is available to the Appellants,

ought not to have convicted and sentenced them for offences punishable under Sections 147, 148, and 308 read with Section 149 of the IPC. The learned senior counsel would further submit that the High Court, without properly appreciating the evidences on record and also the judgment and order passed by the Sessions Court, ought not to have confirmed the order and judgment passed by the Sessions Court.

5. Sh. C.D. Singh, learned counsel appearing for the State of Madhya Pradesh, ably justifies the impugned judgment and order passed by the High Court.

6. We have carefully perused the order of sentence and conviction passed by the Trial Court. The Trial Court, in the course of the order, has observed that the Appellants, although have the right of private defence but, have exceeded the same and, therefore, convicted the Appellants for the aforesaid offences.

7. In the peculiar facts and circumstance of the case, we are of the view that, while confirming the judgment passed by the Trial Court and the High

Court, it would be in the interest of justice to modify the sentence awarded by the Trial Court by reducing the same from three years to one year and enhancing the fine amount from Rs.500/- to Rs.25,000/- each for the offences punishable under Section 308 read with Section 149 of the IPC.

8. Resultantly, while partly allowing this appeal, we maintain the sentence awarded by the Trial Court to the Appellants under Sections 147, 148 of the IPC and modify the sentence awarded to the them under Section 308 read with Section 149 of the IPC by reducing it from three years to one year and increasing the amount of fine from Rs.500/- to Rs.25,000/- each to be deposited before the Trial Court within four weeks' time from the date of this Court's order. In case of default, they would undergo further imprisonment of six months. Both the sentences shall run concurrently.

9. Since the Appellants are on bail, their bail bonds stand cancelled. However, four weeks' time is granted to them to surrender and to serve out the remaining part of the sentence.

10. The amount of fine so deposited shall be distributed equally to each one of the injured witnesses, namely, Jagannath (PW-2), Mulua @ Mulchand (PW-3), Ramko (PW-5), Sukhlal (PW-6), Brajendra (PW-9) and Dabu (PW-10).

11. On the above terms, the Criminal Appeal is disposed of.

Ordered accordingly.

.....J.
(H.L. DATTU)

.....J.
(CHANDRAMAULI KR. PRASAD)

NEW DELHI
DECEMBER 05, 2012

JUDGMENT