

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.2202 of 2011

Bijendra Bhagat Appellant

Versus

State of Uttarakhand Respondent

ORDER

1. The appellant and his two sons named Raman @ Babloo and Randhawa @ Billoo were tried for having caused the deaths of one Rakesh and Attar Kali and thereby committed the offences punishable under Sections 302/34, 324/34 and 452 IPC.

2. According to the prosecution, on 21.10.1999 at about 6.30 pm there was a quarrel between the children of PW2 Surat Singh and the appellant. Thereafter in the intervening night of 21st and 22nd October, 1999, the appellant armed with a *lathi*, accused Raman @ Babloo and Randhawa @ Billoo both armed with Tabals (heavy sharp edged weapon) and country made pistols came to the house of PW2 Surat

Singh and dragged his son Rakesh from the house and started assaulting. The inmates of the house, namely, PW1 Sanjay Kumar, his father PW2 Surat Singh and mother Attar Kali came forward to save said Rakesh. Rakesh suffered eight injuries out of which seven were incised wounds and the eighth injury was caused by a fire arm. Attar Kali received four injuries, all of them being incised wounds. PW1 Sanjay Kumar received three injuries, two of them being lacerated wounds and the third was an abrasion.

3. Accepting the case of the prosecution, the trial court convicted all the accused under Section 302/34 IPC and sentenced them to suffer imprisonment for life and to pay fine of Rs.5,000/-, under Section 324/34 IPC to suffer RI for one year and to pay fine of Rs.1,000/- and under Section 452 IPC to suffer RI for one year and to pay fine of Rs.1,000/-. The conviction and sentence so recorded by the trial court was affirmed by the High Court in appeal. The appellant and his sons Raman @ Babloo and Randhawa @ Billoo preferred special leave petitions in this Court challenging their conviction and sentence. This Court found no merit insofar as the petitions preferred by Raman @ Babloo and Randhawa @ Billoo are concerned and their petitions were dismissed on 16.08.2011. However, insofar as the appellant is

concerned, special leave to appeal was granted. By subsequent order, considering the age of the appellant and the fact that he had remained in jail for about three years, this Court released him on bail. In this appeal arising thus, we have heard learned counsel and gone through the record.

4. The prosecution witnesses are consistent in their version that Raman @ Babloo and Randhawa @ Billoo were armed with Tabals with which the injuries were inflicted upon Rakesh and Attar Kali. According to the witnesses these two accused were also armed with country made pistols. The injuries suffered by the deceased are incised wounds and one fire arm injury. However, none of the injuries on the person of the deceased could be attributed to the *lathi* which was supposedly in the hands of the appellant. Undoubtedly, three injuries on the person of Sanjay Kumar could be caused by a hard and blunt object. But having gone through the testimony of the witnesses and the other material on record, the presence of the appellant and his involvement in the incident clearly appears to be doubtful. We, therefore, deem it appropriate to give the appellant benefit of doubt. We, therefore, acquit him of all the charges and set aside the judgment and order under appeal insofar as the appellant is concerned. The

.....J.
(Uday Umesh Lalit)

New Delhi,
May 29, 2015