

CASE NO.:
Appeal (crl.) 4 of 2005

PETITIONER:
Jagdish & Ors

RESPONDENT:
State of Uttar Pradesh

DATE OF JUDGMENT: 01/05/2008

BENCH:
B.N. AGRAWAL & G.S. SINGHVI & AFTAB ALAM

JUDGMENT:
JUDGMENT
O R D E R
CRIMINAL APPEAL NO.4 OF 2005

Heard learned counsel for the parties.

Six appellants, along with accused Dularey, were convicted by the Trial Court under Section 304 Part-II/149 of the Indian Penal Code [hereinafter referred to as "I.P.C."] and sentenced to undergo rigorous imprisonment for a period of ten years. They were further convicted under Sections 147 and 148 I.P.C. but no separate sentence was awarded on any of these counts. Convictions have been confirmed by the High Court on appeal being preferred by the accused persons. So far as accused Dularey is concerned, it appears that he did not move this Court whereas this appeal by special leave has been filed by the remaining six accused persons.

Conviction of the appellants is based upon the evidence of Roop Lal (P.W.1) and Satrohan (P.W.2), who claimed to be eye-witnesses. These two witnesses have consistently supported the prosecution case and no infirmity could be pointed out therein. In our view, the High Court was quite justified in confirming the convictions of the appellants.

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Turning now to the sentence awarded against the appellants, the maximum sentence under Section 304 Part-II I.P.C. that could have been awarded is ten years. So far as appellants, other than Ram Shankar @ Shankari is concerned, they have remained in custody for a period of more than four years. Ram Shankar @ Shankari, Appellant No.4, has remained in custody for a period of two years and he is more than seventy seven years' old. In the facts and circumstances of the case, we are of the view that ends of justice would be met in case the sentence of imprisonment awarded against the appellants is reduced to the period already undergone and each one of them is directed to pay fine of Rupees ten thousand. Accordingly, the appeal is allowed in-part and, while upholding the convictions of the appellants, the sentence of imprisonment awarded against them is reduced to the period already undergone and each one of them is directed to pay fine of Rupees ten thousand; in default, to undergo further imprisonment for a period of one year. The fine, if realised, shall be paid to the complainant. All the accused persons, except Ram Shankar @ Shankari, Appellant No.4, are directed to be released forthwith, if not required in connection with any other case.

Ram Shankar @ Shankari, Appellant No.4, who is on bail, is discharged from the liability of bail bonds.