

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APEPAL NO. 644 OF 2004

MANNU LAL MAHTO & ANR.

APPELLANT

VERSUS

STATE OF BIHAR

RESPONDENT

O R D E R

1. We have heard the learned counsel for the parties.

2. The two appellants, a husband and wife, were convicted under Section 307 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for seven years and to a fine of Rs. 2,500/- each and in default of payment of fine to further rigorous imprisonment of one year by the Sessions Judge, Champaran, by judgment and order dated 24th March, 1997 in Sessions Trial No. 515 of 1987. Several co-accused of the appellants were, however, acquitted. The appellants thereafter filed an appeal before the Patna High Court and the High Court has confirmed the judgment of the Sessions Judge. It is in this background that the matter is before us after the grant of special leave.

3. Ms. Shweta Garg, the learned counsel for the appellants has raised pleas similar to the ones that had

been raised earlier before the trial court and the High Court. She has first and foremost emphasised that the appellants had fired on the opposite party in the right of their private defence and in that eventuality they were entitled to complete exoneration of any wrong doing by virtue of Section 96 of the Indian Penal Code. She has further highlighted that the appellants had been chased by a mob of 300 or 400 persons and it was at that stage that they had fired into the crowd to save themselves from harm.

4. We find that this plea has not been accepted by the courts below on the evidence of five injured witnesses. On the contrary, it transpires that the appellant Mannu Lal Mahto was constructing his house on public property and when he was called upon to stop the construction he got annoyed and fired into the crowd and caused the injuries. Likewise, appellant No. 2 Panna Devi, his wife, had also fired into the crowd. We also see from the evidence that nine persons were injured during the course of the firing.

5. The learned counsel for the appellants has also argued that the injuries on the persons of Mannu Lal Mahto had not been explained. We, however, notice that except for one injury on the metacarpal, all the other injuries on his person were simple in nature. In the

light of the categoric finding, however, that the incident happened when the appellants were constructing a house on public property and that they had been apprehended by the police immediately after the incident, no fault can be found with the observations of the courts below.

6. The incident happened in the year 1987. Twenty three long years have Elapsed since then. The appellant Mannu Lal Mahto was an Army Personnel. He has apparently lost his job on account of his conviction in the present matter and is presently employed as a Bank Guard. The injuries caused to the opposite party were simple in nature which indicate that the shots had been fired from some distance. In these circumstances, we feel that the ends of justice would be met if the sentence awarded to Mannu Lal Mahto is reduced from seven to four years, and that of his wife Panna Devi, from seven to two years.

7. We, accordingly, dismiss the appeal with this modification in the sentence.

.....J
[HARJIT SINGH BEDI]

.....J
[CHANDRAMAULI KR. PRASAD]

**NEW DELHI,
NOVEMBER 24, 2010.**

