

Criminal Appeal No. 8 of 2005

Against the judgment of conviction and order of sentence dated 08.12.2004 passed by Sri P.K. Choubey, 3rd Addl. Sessions Judge (FTC), Jamtara in Sessions Case No. 81 of 1996/45 of 2003.

Jalaluddin Mian Appellant
Versus
The State of Jharkhand Respondent

For the Appellant : Mr. Mahesh Tewari, Advocate
For the Respondent : Mr. Suraj Verma, Additional Public Prosecutor.

PRESENT

HON'BLE MR. JUSTICE RAJESH KUMAR

By Court: Heard the parties.

2. This appeal is directed against the judgment of conviction and order of sentence dated 08.12.2004 passed by Sri P.K. Choubey, 3rd Addl. Sessions Judge (FTC), Jamtara in Sessions Case No. 81 of 1996/45 of 2003 whereby and whereunder the appellant has been convicted for the offence under Section 324 of I.P.C. and has been sentenced to undergo rigorous imprisonment for two years for the offence under Section 324 of the Indian Penal Code along with a fine of Rs. 500/- with default clause.

3. It appears that the incident of quarrel has taken place on 14.11.1994 between the parties for cutting paddy crop over a piece of land and for which an FIR has been lodged being Jamtara P.S. Case No.88 of 1994 (G.R. No.602 of 1994) for the offence under Sections 324/307 of the Indian Penal Code.

4. After investigation, the police has submitted final form and the appellant has been charged under Sections 324/307 of the Indian Penal Code.

5. The trial court after considering the materials available on the record, has convicted the appellant under Section 324 of the Indian Penal Code. The trial court has recorded that there is no evidence that the appellant has criminal antecedent and further the occurrence has taken place due to land dispute but has denied the benefit of Probation of Offenders Act only on the ground of nature of weapon i.e. Tangi.

6. It has been submitted by the counsel for the appellant that the incident is of the year 1994. The parties are next door neighbor. Now

they are living peacefully and further the appellant has sufficiently been punished and he is in custody since 10.03.2021. It has been submitted that the appellant is aged about 71 years. On the above facts, it has been submitted that the sentencing part may be suitably modified.

7. On the other hand, counsel for the State has opposed the payer and submitted that there is ample evidence against the appellant and the injured has also proved the incident.

8. Having heard counsel for the parties and on perusal of the record, it appears that the appellant is aged about 71 years and he is in custody since 10.03.2021. Further, the incident is of the year 1994. There is no repetition of blow. The parties are next door neighbor and the incident was due to cutting of paddy crop over a piece of land.

9. Considering the entire facts and circumstances of the case, this Court feels that in the interest of justice, sentencing part should be modified. Accordingly, order of sentence dated 8.12.2004 is modified to the extent that the period of imprisonment is reduced to the period of custody already undergone by the appellant. The fine amount of Rs.500/- imposed by the trial court, is enhanced to Rs.5000/- and it should be paid in favour of the injured witness.

10. Accordingly, present appeal is partly allowed with the above modification and the appellant namely, Jalaluddin Mian is directed to be released from custody forthwith, if not wanted in any other case.

11. The appellant is directed to remain present through Advocate or personally to the National Lok Adalat scheduled to be held on 11.09.2021 at Jamtara Civil Court with fine amount of Rs.5000/-so that the same should be given to the injured witness. In case of non-payment of fine amount, the appellant is directed to undergo further 3 months simple imprisonment.

12. In view of disposal of present appeal, I.A. No.3049 of 2021 also stands disposed of.

(Rajesh Kumar, J)