

(1994) 07 SC CK 0116

## Supreme Court of India

Case No: Criminal Appeals Nos. 35 To 39 Of 1986

Gulab Singh

APPELLANT

Vs

Yuvraj Singh and Others

RESPONDENT

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**Date of Decision:** July 27, 1994**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 149, 325

**Citation:** (1995) 4 SCC 623 Supp**Hon'ble Judges:** Faizan Uddin, J; A. S. Anand, J**Bench:** Division Bench**Final Decision:** Disposed Of

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**Judgement**

@JUDGMENTTAG-ORDER

1. These five appeals arise out of an incident/incidents which took place on 21/3/1981 in Village Gorkapar. Injuries were received by the complainant party as well as by the accused party. The trial court acquitted all 33 accused persons vide its judgment dated 17/5/1983 in Sessions Trial No. 105 of 1981. The High Court, by its impugned judgment dated 25/1/1985, set aside the acquittal of 21 accused persons while maintaining the acquittal of 12. The 21 accused persons were convicted for various offences by the High court and sentenced in the manner which we shall presently indicate. The accused filed Criminal Appeals Nos. 36-38 of 1986 by special leave challenging their conviction and sentence while the complainant filed Criminal Appeal No. 35 of 1986 by special leave questioning the inadequacy of the sentence as also the acquittal of the 12 accused. The State has also filed an appeal, being Criminal Appeal No. 39 of 1986 on special leave being granted, questioning the acquittal of the 12 accused as also the inadequacy of the sentence imposed on the 21 accused.

2. After hearing learned counsel for the parties and looking into the record, we find that it is not necessary for us to go into the detailed facts of the case or to discuss

the evidence led in the case. Suffice it to say, that the reasons given by the High court in its judgment dated 25/1/1985, setting aside the acquittal of the 21 accused, are well-merited. The reasons are cogent, sound and reasonable and we do not find any justification to take a view different than the one taken by the High court insofar as the conviction of the 21 accused is concerned. No infirmity in the appreciation of evidence or the conclusions arrived at by the High court have been brought to our notice by any of the parties. The trial court, in our opinion, dealt with the evidence led in the case, including the medical evidence, in a rather light-hearted manner and recorded the order of acquittal by giving benefit of doubt and if we may say so, that too rather hesitatingly. The High court, therefore, justifiably and rightly set aside the acquittal of the 21 accused persons and the reasons given by the High court appeal to us and we accept the same. The reasons for maintaining the acquittal of 12 of the accused persons are equally sound and we see no reason to take a contrary view.

3. After convicting the 21 accused persons, the High court directed Kundanlal and Dashrath to be bound over in a sum of Rs. 1,000.00 each for a period of two years, to keep peace and good behaviour, to appear and receive sentence when called upon during this period. The remaining 19 out of the 21 accused were sentenced in the following manner.

"The remaining 19 out of the aforesaid 21 accused are sentenced to pay a fine of Rs 200.00 each under Section 148, Indian Penal Code, or in default of payment of fine, to undergo rigorous imprisonment for two months. Similarly, under S. 448/149, Indian Penal Code also they are sentenced to pay a fine of Rs. 200.00 each or in default of payment of fine, to undergo rigorous imprisonment for two months. Again, they are sentenced to pay a fine of Rs. 200.00 each under S. 323/149, Indian Penal Code or in default of payment of fine to undergo rigorous imprisonment for two months. Under S. 325/149, Indian Penal Code each of them however is sentenced till the rising of the court."

4. We have given our anxious consideration to the question of sentence. We are conscious that the occurrence took place long back in 1981. It also appears from the record that the occurrence took place, as an aftermath of the election rivalry between two groups. The order of acquittal was made by the trial court in 1983 while the conviction and sentence was recorded by the High court in January 1985, more than 9 years ago. Whereas, we do not find adequate and justifiable reasons to enhance the sentence imposed upon 19 out of the 21 accused for offences under S. 148, 448/149 and 323/149 at this point of time, we are of the opinion that the sentence imposed upon the 19 accused persons for the offence under S. 325/149 Indian Penal Code is rather inadequate. Keeping in view the long time that has elapsed and the established facts and circumstances of the case including the manner in which the occurrence took place, we are not inclined to impose any sentence of imprisonment on the 19 accused persons for the offences under S. 325/149 other than the sentence already undergone by them as now we would not

like to send them back to jail, keeping in view the modern theory of penology to reform an accused and accept him as a member of the society, but at the same time we are of the opinion that the interest of justice would be met if in addition to the sentence of imprisonment already undergone by each one of them, the 19 accused are also sentenced to pay compensation under Section 357(3) of the Code of Criminal Procedure to the complainant party. We, therefore, direct that for the offences under S. 325/149 Indian Penal Code, in addition to the sentence already undergone by them, each of the 19 accused shall pay, by way of compensation, a sum of Rs 2000 each. The total amount of compensation shall be deposited in the court of the learned Sessions Judge, Durg, within a period of three months from today. After the amount is so deposited, the learned Sessions Judge, Durg shall pay it by way of compensation to the injured persons, in equal share.

5. With the aforesaid modification in the sentence, all the 5 appeals are disposed of.