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Court : Rajasthan

Decided On : Jan-30-1986

Reported in : 1986WLN(UC)358

Judge : Jas Raj Chopra, J.

Appeal No. : S.B. Criminal Appeal No. 54 of 1978

Appellant : inder Singh and ors.

Respondent : State of Rajasthan

Judgement :

Jas Raj Chopra, J.

1. This appeal is directed against the judgment of learned Sessions Judge No. 1, Hanumangarh dated January 16, 1978 whereby the learned lower court has held accused Veersingh, Bhagsingh and Bantasingh guilty of the offence under Sections 147, and 326, 323 read with Section 149 IPC. He has further held accused Indersingh Malkayat Singh, Jogendrasingh and Kartarsingh guilty of the offence under Sections 148, and 326, 324, 323 read with Section 149 IPC and has sentenced all the seven accused persons to rigorous imprisonment for three years together with a fine of Rs. 200/- for offences under Sections 326, 324, 323 read with Section 149 IPC and in default to undergo two months' rigorous imprisonment. For the offence under Section 148 as also the offence under

Section 147 IPC the above said 7 accused persons have been sentenced to one year's rigorous imprisonment each. All the substantive sentences have been ordered to run concurrently. The joint sentence has been recorded for all the three offences i.e. Sections 326, 324 and 323 IPC read with Section 149 IPC. All the accused appellants have been acquitted of the offence under Section 436 IPC.

2. The facts of this case, briefly, stated are that Mst. Sito was a married wife of accused Kirpalsingh accused. She is the daughter of PW 2 Kartarsingh. It is alleged that Kirpalsingh and his mother were harassing Mst. Situ and, therefore, her father went to bring Mst. Situ. Her in-laws refused to send her with him. He, therefore, obtained a warrant under Section 100 Cr. PC and by adopting that process he secured the custody of Mst. Sito. After that Mst. Sito started living with her parents. It is alleged that Kripalsingh and her father Indersingh four to five days attempted to take back Mst. Sito by arrnging a Panchayat but Kartarsingh refused to send Mst. Sito with Kirpalsingh and his father Indersingh.

3. The case of the prosecution further is that on the date of occurrence i.e. on September 19, 1972 at about 10 or 11 a.m. in the morning all these seven accused persons came to the house of Kartarsingh. Indersingh Kirpalsingh, Malkiyatsingh and Jogendrasingh were armed with Gandasa whereas the other three accused persons i.e. Veersingh, Bantasingh and Bantasingh alias Bhagsingh were armed with lathies. As soon as they arrived at the residence of Kartarsingh they asked Kartarsingh and his sons to send Mst. Sito. Kartarsingh, however, refused to send her, and requested them not to use force for achieving this end. It is alleged that they all came in a jeep and the jeep was left at some distance. As soon as Kartarsingh refused to send Mst. Sito, accused Kirpalsingh and Indersingh struck a blow with 'gandasi' on the hand of Kartarsingh. He was followed by Malkiyat. singh. Jogendra Singh then tried to inflict a blow with a 'gandasi' on the head of Kartarsingh but the blow hit him on his leg. Mst. Sarjeetkaur (PW 6) wife of PW 1 Kirpalsingh tried to save her father-in-law whereupon accused Kirpalsingh inflicted a blow with 'gandasi' on her head. One Harphul Singh came to their rescue, he too was hit on his head by Kirpalsingh with a 'gandasi'. At that point of time all the three other accused persons i.e. Veersingh. Bantasingh and Bhagsingh started beating these three injured persons with

lathies. Kartarsingh's son Jagroop Singh also tried to intervene but he too was beaten by the accused persons. After inflicting injuries to all these four persons i.e. Kartarsingh, Harphul Singh, Surjeet Kaur and Jagroop Singh accused Harphul Singh and Malkiyat Singh caught hold of the arms of Mst. Sito who was sitting outside the hut of Jagroop Singh. They dragged her to the jeep and then forcibly put her in the jeep and took her away. Then as accused persons left all these four injured persons immediately went to Sangaria and there Harphul Singh PW 1 lodged an oral report at P.S. Sangaria which had been marked as Ex. P 1. The SHO got their injuries examined and the injury reports of Jagroop Singh, Kartarsingh, Surjeet Kaur and Harphul Singh have been marked as Ex. P 7 to Ex. P 10 respectively. X-ray was also advised for the injuries of Shri Kartar Singh. The X-ray plates have been marked Ex. P 11 and Ex. P. 12. X-ray reading reports have been marked as Ex. P 13A and Ex. P 14. On the basis of this radiological examination it was found that there was a fracture of the frontal bone on the left side of injured Kartarsingh. The Police inspected the site and prepared the site plan Ex. P 2 and the site inspection memo Ex. P 2A. Blood stained clothes of Mst. Sarjeet Kaur, Kartarsingh and Harphul Singh were also taken into custody. It is alleged that the other five accused persons i.e. excepting Kirpalsingh and Malkiyat Singh lit fire to the hutments of Kartarsingh and Harphul Singh and so same burnt portion and ashes of those hutments were also seized by the Police. The accused persons were arrested and crime articles were recovered on their information and at their instance. Initially Bachan Singh was named as one of the accused persons in the FIR marked Ex. P 1. However, at the trial it was found that actually Bachansingh did not come with the accused party and accused Bhagsingh came with them, instead of Bachansingh.

4. After usual investigation case against all these 7 appellants was challenged in the court of learned Munsif and Judicial Magistrate, Hanumangarh from where the accused persons were committed for trial to the court of learned Additional Sessions Judge, Hanumangarh. Initially all the accused persons were charged with the offence under Sections 148, and 323 and 324 read with Sections 149 and 436, IPC. However, later on a charge under Section 326 IPC read with Section 149 was also added against accused Indersingh and Malkiyat Singh. The accused persons did not plead guilty to the charges and claimed trial, where upon the

prosecution in all examined 8 witnesses in support of its case. The statements of the accused persons were recorded under Section 313, Cr.PC. They examined two witnesses in their defence, viz., DW 1 Inder Singh accused himself and DW 2 Ram Chandra Bishnoi and Tandurwali. The accused persons have taken the plea that actually they did not go to attack the prosecution witnesses. Their sole aim was to bring back Mst. Sito who was residing at her father's house. They actually took a Panchayat to her house which was headed by Ram Chandra Chairman of the Nyaya Panch and Surayan Singh Panch. When they asked Kartar Singh to send Mst. Sito with them he demanded Rs. 2,500/- from them. When they refused to pay the money Kartar Singh and his sons and 2-3 other persons attacked them and in retaliation or in their right of private defence of person they also inflicted injuries to the complainant party. They have lodged a report of this incident, a certified copy of which has been marked as Ex. D 14A. On the basis of this report a case against the complainant side has been challenged in the court of the learned Munsif Magistrate, Hanurnangarh against the male injured prosecution witnesses and Jagir Singh, Jeet Singh and Balbeer Singh. After hearing the parties the learned lower court decided the case as aforesaid. It has held that actually the accused party was aggressive. It has gone to bring back Sito with them because of force. According to the learned lower court Bachan Singh has not taken part in the occurrence but actually Bhag Singh had taken part in this occurrence. It has relied on the testimony of the eye witnesses, i.e., PW 1 Harphul Singh, PW 2 Kartar Singh, PW 5 Mst. Sito, PW 6 Sarjeet Kaur, and PW 7 Jagroop Singh. It has held that this testimony of the eye witnesses out of whom persons were injured in this incident is fully corroborated by the testimony of the Medical Officers and, therefore, it has convicted and sentenced these accused-appellants as aforesaid. Aggrieved against this judgment these 7 accused-appellants have preferred this appeal.

5. I have gone through the record of this case and have heard Mr. R.N. Bishnoi for the accused-appellants and Mr. B.C. Bhansali learned Public Prosecutor for the State. Now I have to decide how far these findings of the learned lower court can be sustained on the basis of the record. There is no dispute in this case that there was a cross-beating although the prosecution has not initially mentioned in the FIR Ex. P 1 that any beating was given by them to the accused side but ultimately PW

1 Harphulsingh has stated in his statement before the trial Court that he snatched lathi from accused Veersingh and had inflicted injuries to the accused persons, with this lathi snatched by him from Veersingh. Kartarsingh has also stated that Harphul Singh has inflicted injuries to the persons of the accused side with a lathi. In this respect we may refer to the testimony of PW 2 Dr. S.K. Jain, Dr. S.M Jain has stated that on September 19, 1972 he was posted as Medical Officer Incharge of the Primary Health Centre Sangaria. He examined the injuries of Jagroopsingh and found that he had three abrasions and one bruise. All these four injuries were simple in nature and caused by blunt weapon and their duration was fresh. He has proved his injury memo Ex. P 7. On the same date at 1.40 p.m. he examined the injuries of Kartarsingh and found as many as 11 injuries on his person. Three of these injuries, i.e., Nos. 1, 3 and 4 were incised wound situated on the left frontal parietal region, and right foot respectively. One more lacerated wound was found on his left parietal region. All other injuries were bruises situated on the different parts of the body. The condition of this patient was serious. He was bleeding from the nose, his blood pressure was 96/70, his pulse rate was 112 per minute and was feeble. His pupils were sluggish reacting to light. He vomitted profusely. He even vomitted twice during the period he was examined by the doctor. The doctor has proved his injury report Ex. P. 8. His injuries Nos. 1, 2, 9 and 10 were referred for X-ray examination and on X-ray examination, a fracture of the frontal bone was detected on his left side. The X-ray examination was conducted under the supervision of Dr. K.M. Taneja (PW 4). He has proved his X-ray plates Ex. P 11 and Ex. P 12 and his X-ray reading report maintained in the hospital register is marked as Ex. P 13 the copy of which signed by the doctor has been marked as Ex. P 13A find place in the record of this case. His all other injuries were simple. The testimony of these two doctors reveal that he has received three sharp weapon injuries one on his head and two on his right foot. He also received one blunt weapon injury on the left side of his head. Only one of these injuries received on the head was found to be grievous although no attempt has been made to specify as to which particular injury received on the head has resulted in his fracture. His all other injuries were simple and except three incised wounds and other 8 injuries were caused by blunt weapon.

6. Dr. Soni also examined the injuries of Mst. Gurjeet Kaur on that very day at 2.15 p.m. and found four injuries on her person one of which was an incised wound on right occipital parietal region which was a sharp weapon injury. The other three injuries were by blunt weapon one of which was a bruise situated on the frontal temporal region. All the four injuries were simple in nature and their duration was fresh. She was so much frightened that B.P. was not recorded and profusely vomitted. Her pulse was feeble and its rate was 130 per minute. She was perspiring profusely. On the advice of the doctor dying declarations of Sarjeet Kaur and Kartarsingh were recorded by the then Tehsildar of Sangaria. He has proved his injury memo Ex. P. 9.

7. On the same day Harphulsingh's injuries were also examined. He had five simple injuries by blunt weapon on his person. His injury memo Ex. P. 10 has been proved by the doctor.

8. This doctor has also examined the injuries found on the accused side on September 20, 1972. Doctor Jain found four injuries by blunt weapon on the person of Bantasingh. All these injuries were simple in nature. X-ray was advised for injury No. 2 which was swelling on whole of the hand with a minor lacerated wound on the dorsum of the right hand. Dr. Taneja who conducted the X-ray of this injury No. 2 on September 28, 1972 found fracture of 4th metacarpal bone. He has proved the X-ray report Ex. D. 9. Thus injury No. 2 received by Bantasingh was grievous in nature. He has proved his injury report Ex. P 4. He found five simple injuries on the person of Malkiyatsingh which were all simple in nature and were caused by blunt weapon. Although in the injury report Ex. D. 5 he has mentioned the number of injuries as four, but injury No. 3, consists of 2 lacerated wounds and, therefore, in all he has received five injuries.

9. The doctor further found 2 incised wound injuries on the person of Bhagsingh. He has proved the injury memo Ex. P 6. Dr. Taneja who conducted the X-ray examination of injury No. 1 of Bhagsingh has opined that there was a fracture of dislocation of distal phalanx of right little finger. He has proved the X-ray, reading report Ex. D. 8 which is in his hand and bears his signatures. Thus injury No. 1 of Bhagsingh was grievous in nature and was caused by a sharp weapon. His injury

No. 2 was simple in nature.

10. Dr. Soni has also conducted the medical examination of the injuries of Sunder Singh. Injury No. 1 was a punctured wound, whereas injury No. 3 was an incised wound and rest of the injuries were either bruises, abrasions or lacerated wounds. All the six injuries were simple in nature. Injuries Nos. 1 and 3 were caused by sharp or pointed objects whereas rest of the injuries were caused by blunt object. From the testimony of Dr. Saini read with the testimony of Dr. K.M. Taneja it is clearly brought out that four persons were injured on the side of the complainant and accused party. The persons of complainant party in all received 24 injuries of which one injury on the head of Kartarsingh, was found to be grievous being a fracture of the frontal bone. The accused party received 17 injuries out of which 2 were grievous one by a sharp weapon and other by a blunt weapon. The testimony of these two doctors is sufficient to conclude that there was a cross-beating. The testimony of PW 1 Harphulsingh and PW 2 Kartar Singh who have stated at the trial that Harphulsingh snatched the lathi of accused Veersingh and he inflicted injuries to the accused side cannot be taken at its face value. In this case the accused party has also received injuries not only with a sharp and a blunt weapon but by a pointed object also because one of the injuries found on the person of Indersingh was a punctured wound. All these three arms have been used in giving beating to the accused side and thus we can safely conclude that it is a case of cross-beating probably from the very start looking to the number of injuries received by the complainant and the accused side and looking to the equal number of persons who have been injured in the incident i.e. four from each side.

11. Mr. Bishnoi canvassed before the court that the accused party did not go to the house of Kartarsingh with any aggressive design or object. Their sole purpose was to bring back Mst. Sito who was the married wife of accused Kirpalsingh. They actually assembled a Panchayat there. Ramchandra Sarpanch (Chairman) Nyaya Panchayat and Surajansingh Panch accompanied them. They called Kartarsingh to the Panchayat and requested him to send Mst. Sito with them. It is an admitted case on the part of the prosecution that even earlier such attempts were made. This facts finds mention in the First Information Report lodged by Harphulsingh which has been marked Ex. P 1. On that day too father of Mst. Sito i.e. Kartarsingh

was called to the Panchayat and was requested to send Mst. Sito with them. Kartarsingh demanded a sum of Rs. 2500/- to send Mst. Sito with them. This was not acceptable to the accused side and so some verbal altercation took place and in exchange of those hot words the tempers raised high and in that process all of a sudden both parties took their arms and beat each other and so according to him it is actually a case of free fight and not of an aggression by either side. He has conceded that initially the accused party has come with a case of right of private defence and has alleged that the prosecution party was aggressive but he has candidly conceded that looking to the facts and circumstances of this case it appears to be a case of free fight.

12. Mr. Bhansali, the learned Public Prosecutor appearing on behalf of the State has however, submitted that the accused persons came from their own village of to the village of Kartarsingh, i.e., village Basir with an aggressive design. They came armed. They immediately rushed to the house of Kartarsingh and asked him to send Mst. Sito with them and when he refused to oblige them they immediately attacked him with 'gandas' and lathies' and after that it was a free fight for all for the accused persons because they not only belaboured Mst. Kartarsingh but they also dealt blows to all those persons who came to rescue him, and thus the accused party was nothing but aggressive in its design. If some injuries have been received by the accused party in retaliation, they cannot blame any body but should thank for themselves because the persons whom they were beating also assessed some strength and, therefore, it was quite natural for them to have retaliated to the show of force by the accused party.

13. I have given my most earnest consideration to the rival submissions made at the Bar and I feel inclined to accept the submissions put forth by Mr. Bishnoi in this case. I have already discussed the evidence of both the doctors regarding the injuries received by both the parties. The prosecution has totally denied that any Panchayat was held and that the Panchayat called Kartarsingh and requested him to send Mst. Sito with that Kirpalsingh i.e. (with Sito's husband) and Kirpalsingh's father Indersingh. This denial on the part of the prosecution is not credible PW 2 Kartarsingh has denied in his examination-in-chief and cross-examination that any Panchayat took place in the village on that day in which he was called. He was,

however, confronted with portion A to B of his Police statement Ex. D 3 in which he has stated as under:

ckn es bUnzflag o d`ikyflag gekjs xkao clhj es iapk;r Hkh dh Fkh exj eSus esjh yM+dh dks Hkstus ls badkj dj fn;k A

In portion C to D of his police statement he got it recorded that:

^vkt d`ikyflag o mlds cki bUnzflag us eq>s cqyk;k vkSj lhrks dks Hkstus dk dgk vkSj eS badkj gks x;kA

In portion C to D of Ex. D 3 he got it recorded that:

eSus /;ku ugh fn;k fd iapk;r es dkSu dkSu Fks A

When his attention was drawn to three portions of his earlier police statement he stated that he did not give any such portion recorded in his police statement. This is no explanation and it clearly shows that the earlier version of the prosecution witnesses during investigation was that on that day a Panchayat was actually held, but he refused to send Mst. Sito with Kripal Singh and his father. PW 5 Mst. Sito has also stated that no Panchayat was held on that day. Her attention was drawn to portion C to D of her police statement Ex. P 10 wherein he got it recorded that:

^^ mlds ckn esjk llqj o ?kjokyk iapk;r ysdj gekjs ?kj vk;s A

She has stated that this fact has been wrongly recorded by the police in her statement. PW 5 Moru Ram who has recorded this portion C to D of Ex. D 10 has stated that this was actually got recorded by Mst. Sito, when her police statement was recorded. PW 6 Surjeet Kaur has also stated that no Panchayat was held in the village. However, her attention was drawn to portions I to J and G to H of her police statement. In portion I to J she has got it recorded as under:

vkt esjs llqj djrkjflag dsk xkao clhj es iapk;r ds fy, cqyk;k Fkk d`ikyflag cxSjk us gh cqyk;k FkkA

In portion C to D she has got it recorded as under:

esjh uun ds ?kjokys d`ikyflag us dgk fd lhrks dks ysus vk;s gS Hkstks esjs llqj us lhrks dks Hkstus dh u dh rks cksypky gks xbZ A

When her attention was drawn to this portion she has stated that the police has wrongly recorded these portions in her statement. Even Jagroop Singh was also confronted with portions A to B and C to D of his police statement Ex. P 13 wherein he got it recorded as under:

bUnzflag o d`ikyflag us iapk;r Hkh dh Fkh esjk cki lhrks dks lwjs okys Hkstus ds fy, jtkean ugh Fkk A

C to D:

dgk fd lhrks ysus vk, gS A esjk cki badkj gqvK A blh ckr ij vkil es cksypky gks xbZ A

He too has stated that these portions have been wrongly recorded in the police statement by the Investigating Officer. We can safely conclude that actually the witnesses came with a case with the investigation stage that some Panchayat was held. The accused side came with the Panchayat in the Chowk of Thuriwala in house because Mst. Sito has admitted in portion C to D of her police statement Ex. D 10 that the Panchayat was brought by her husband and father-in-law at her house. Shri Kartar Singh was called and was asked to send back Sito with these persons but he refused. It has been admitted by Mst. Surjeet Kaur and Jagroop Singh in their police statement that when they requested Kartar Singh to send Sito with them they refused and thereafter hot exchange of words took place. PW 8 Moru Ram is the Investigating Officer in this case. He has admitted in his crossexamination that it has clearly come in his investigation that the accused persons came with a Panchayat to village Basir with Surayan Singh Panch and Ram Chandra Chairman. This admission on the part of the Investigating Officer clearly belies the statement of prosecution witnesses that no Panchayat was actually held and no verbal altercation took place. The defence has even produced DW 2 Ram Chandra Bishnoi Chairman Nyaya Panchayat who was holding office of Chairman at the relevant time. He has also stated that he along with Surayan Singh Panch and others went to the house of Kartar Singh with a Panchayat and asked him to send Mst. Sito with Kripal Singh but he demanded Rs. 2,5000/- when

they told him as to for what he was demanding money when she is the married wife of Kripal Singh. He has further stated that then these persons started fighting with each other. He has used the phrase 'Lath baj gaye' meaning thereby that these persons started fighting among themselves. A closure scrutiny of the testimony of these witnesses clearly reveals that the initial object of the assembly was to persuade Kartar Singh to send back Mst. Sito with her husband when she got recovered by resorting to the provisions of Section 100 of Cr.PC. The initial object of the assembly was not at all illegal. The accused party even earlier tried to bring back Sito and held three-four Panchayat to achieve that object. Even on that day the Panchayat was taken with the sole object of persuading Kartar Singh to send back Sito with them. It appears that when Kartar Singh demanded money for the sending back Sito hot words were exchanged because his motives were questionable and it appears that in that process both parties, who probably had arms with them started fighting with each other and so definitely it is a case of free fight from the very start. It is a settled law that in a case of free fight provisions of Section 149, IPC cannot be made applicable and the assembly cannot be characterised as unlawful assembly. So no accused can be held guilty under Sections 147 or 148, IPC and no body can be held guilty of any substantive offence by taking recourse to Section 149, IPC. It may be relevant to mention here that the charge under Section 326 read with Section 149, IPC was framed only against the accused persons, i.e., Kripal Singh and Malkiyat Singh. I fail to understand how the learned lower court has held all the seven accused persons guilty of the offence under Section 326 read with Section 149, IPC. Be that as it may, now when I have already held that it is a case of free fight individual responsibility has to be fixed and ascertained. The prosecution has mentioned in its FIR Ex. P. I that Bachansingh was accompanying the accused persons, later at the investigating stage it was given out that Bachansingh was not there but Bhagsingh was there. At the trial PW 1 Harphulsingh has tried to show that Bachansingh is alias name of Bhagsingh. This shifting and vacillating testimony on the part of the prosecution cannot be accepted and, therefore so far as accused Bhagsingh is concerned he deserves the benefit of doubt and a consequent acquittal. Kartarsingh has received two injuries on his head. Both are situated on the left side of his head and according to the eyewitnesses both these

injuries have been inflicted by Gandasis. Although one of them is an incised wound and the other is a lacerated wound but no attempt has been made to specify as to which of these two injuries was responsible for causing this fracture. Both injuries Nos. 1 and 2 were referred to the radiologist for X-ray examination and the doctor has opined that he found fracture of frontal bone; which particular injury has caused fracture has not been made clear. Under these circumstances, when individual responsibility has to be fixed no body can be held guilty of the offence under Section 326 IPC.

14. All the five prosecution witnesses i.e. PW 1 Harphulsingh, PW 2 Kartarsingh PW 6 Mst. Sito, PW 6 Surjeet Kuar and PW 7 Jagroopsingh have categorically stated that Indersingh, Malkiyatsingh. Jogendrasingh and Kripalsingh were armed with Gandasis. Indersingh and Malkiyatsingh have inflicted blow with a Gandasi on the head of Kartarsingh, Jogendrasingh has inflicted a blow on the foot of Kartarsingh with a Gandasis. Kripalsingh has inflicted Gandasi blows on the head of Surjeet Kaur and Harphoolsingh whereas other accused persons have belaboured them with lathies. Looking to those facts and circumstances and in the light of this testimony accused Indersingh, Kripalsingh, Malkiyatsingh and Jogendrasingh should be held guilty for the offence under Section 324 IPC and accused Veersingh and Banta Singh should be held guilty under Section 323 IPC. I have already held that Bhagsingh deserves benefit of doubt and, therefore, he cannot be held guilty of any offence.

15. Mr. Bishnoi also addressed the court on the point of sentence. He has stated that the occurrence has taken place in the year 1972. The occurrence took place in the heat of passion. The accused persons had a right to take Mst. Sito because Sito was the married wife of accused Kripalsingh. Accused Indersingh is father of Kripalsingh and it is because of that offence under Section 366 IPC has not been even alleged against the accused persons and in these circumstances after the expiry of about 13 years when they have already remained in custody for 5 days each it will not be just and proper to send them back to custody. The ends of justice would be met if reasonable amount of fine is imposed against them.

16. Bastichand Public Prosecutor has also submitted that although it will be useless to send them back to custody for these offences after a lapse of more than 12 years but heavy fine should be imposed against them. Looking to the facts and circumstances of this case and taking into consideration that they are Bajigars by caste, I feel inclined to hold that the ends of justice will be met if accused Indersingh, Kirpalsingh, Jogendrasingh and Malkiyatsingh are sentenced to the period of their custody along with a fine of Rs. 700/- each for the offence under Section 324 IPC and accused Veersingh and Bantasingh may be sentenced to the period of their custody along with a fine of Rs. 400/- for the offence under Section 323 IPC.

17. In the result the appeal filed by accused-appellants Bhagsingh is accepted, his conviction and sentence under Sections 47 and 326, 324 and 323 read with Section 149 IPC are set aside and he is acquitted of the above said offence by giving him the benefit of doubt. The appeal filed by other six accused-persons, that is, Indersingh, Malkiyatsingh, Kirpalsingh, Veersingh, Jogendrasingh, and Banta Singh partially succeeds. The conviction of accused appellants Indersingh, Kirpalsingh, Malkiyatsingh and Jogendrasingh under Sections 148, and 326, 324, 323 read with Section 149 IPC and conviction of accused-appellants Veersingh and Bantasingh under Sections 147 and 326, 324, 323/149 IPC is set aside. Accused Indersingh, Kirpalsingh, Malkiyatsingh and Jogendrasingh are held guilty of the offence under Section 325 IPC and they are sentenced to the period of their custody along with a fine of Rs. 700/- and in default to undergo three months' rigorous imprisonment each. Accused appellants Veersingh and Bantasingh are held guilty for the offence under Section 323 IPC and they are sentenced to the period of their custody along with a fine of Rs. 400/- each and in default to undergo two months rigorous imprisonment each.

18. The learned Counsel for the appellants has prayed for two months' time to deposit the amount of fine. Time prayed for is allowed. If the fine is not deposited within the aforesaid time the learned Additional Sessions Judge No. 1, Hanumangarh is directed to effect the arrest of these six accused persons to undergo the sentence imposed against them in default of the payment of the different amounts of fine imposed against each of them. Accused Bhagasingh is

on bail. He need not surrender to his bail bonds. His bail bonds are hereby cancelled.

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