

Ratan and ors. Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Apr-18-2001

Reported in : 2001(2)WLC733; 2001(4)WLN581

Judge : N.N. Mathur and; Khem Chand Sharma, JJ.

Appeal No. : D.B. Criminal Appeal No. 648 of 1998

Appellant : Ratan and ors.

Respondent : State of Rajasthan

Disposition : Appeal dismissed

Judgement :

N.N. Mathur, J.

1. This criminal appeal under Section 374 IPC by the accused appellants, namely Ratan, Madan and Sawra Ram @ Sawarmal arises out of the judgment and order dated September 7, 1998 passed by the learned Additional Sessions Judge, Kishangarh (Ajmer), thereby holding the accused appellants guilty for the offence under Section 302 read with Section 34 and 323 read with Section 34 I.P.C. While convicting the appellants, the learned Additional Sessions Judge has sentenced each of them to undergo life imprisonment with a fine of Rs. 1000/-, in default of payment of fine, to further undergo six months rigorous imprisonment on the first

count, and each to undergo 3 months imprisonment with a fine of Rs. 100/-, in default of payment of fine, to further undergo one months' rigorous imprisonment, on the second count.

2. The prosecution story, in brief, unfolded during trial is that on 26.10.1996 at 9.05 PM, a Parcha Bayan (Ex.P-6) of injured Harji S/o Shri Ram Karan Gujar was recorded in the hospital at Kishangarh. In his parcha bayan, injured Harji has stated that in the evening he was at his field. His brother Badha (deceased) and Ratan S/o Shyokaran were also there. At about 4.30 P.M. when they were irrigating their field, Ratan S/o Rameshwar, Madan @ Mada S/o Rameshwar and Sawara Jat residents of village Dholpuria came there duly armed with Lathis and Phawdas and told them that they will irrigate the field after breaking the 'Odha'. When they prevented them from doing so, the accused persons started inflicting blows with their weapons. These accused persons gave them severe beatings with their weapons. On raising hue and cry by the members of complainant side, Bhanwar S/o Ratan, Gopi S/o Meva came to the spot but by that time the accused had murdered Badha and thereafter the accused ran away. On hearing noise, the villagers namely, Mangla, Chhitar, Madan, Panchu etc. came there. These persons, on seeing the precarious condition of the injured persons, took them to the hospital in a Jeep of one Naurat. The dead body of Badha was lying in the field. Lastly, the injured in his parcha bayan has stated that on preventing the accused persons from breaking Odha, they attacked with an intention to kill them, killed Badha and badly injured him and Ratan. On this parcha bayan (Ex.P.6), the police registered a case for offence under Sections 302, 307 and 34 I.P.C. vide FIR No. 173/96 (Ex.P.7) and proceeded to investigate the case.

3. During investigation, the police prepared site plan Ex.P.29 & site inspection note Ex.P.30, got injured Harji and Ratan medically examined, vide Ex.P.25 and Ex.P.26. The accused persons namely; Madan, Ratan and Sawra were arrested vide arrest memos Ex.P.19, Ex.P.20 & Ex.P.21 respectively. The police also recovered Phawadas from the accused vide recovery memo Ex.P.22, Ex.P.23 & Ex.P.36 on their information, vide information memos Ex.P.33, Ex.P.34 and Ex.P.35, site plan of recovery of Phawadas was also prepared which is Ex.P.18. Investigating Officer also got the accused medically examined and collected injury

reports of Madan, Ratan and Sawra Ex.P.1, 2 & 3 respectively. Investigation Officer also prepared 'Panchnama' of the dead body of the deceased Badha Ex.p.12 and 'Panchnama' of deceased Ratan Ex.P.13, Investigation Officer also took in possession the blood smeared soil and control soil, woolen blanket, pollyster Loongi of deceased Badha and one piece of wooden headlog of a cot and a pair of Chhapal from the place of occurrence vide Ex.P.14. The police also took in possession a Kurta made of Khadi, Baniyan and Dhoti smeared in blood of deceased Badha vide Ex.P.15; a Shirt, Baniyan, and Dhoti smeared in blood of deceased Ratan vide Ex.P.16, and a turban, Shawl, Baniyan and Dhoti smeared in blood of injured Harji vide Ex.P.17. The postmortem reports of deceased Badha and Ratan are Ex.P.4 and Ex.P.5. Investigating Officer also sent the recovered articles to FSL for chemical examination, the receipt of which is Ex.P.8 and FSL report is Ex.P.39, the police also recorded the statements of witnesses under Section 161 Cr.P.C. During investigation, injured Ratan succumbed to his injuries.

4. After completion of investigation, the police submitted charge-sheet against the present accused-appellants in the Court of Learned Judicial Magistrate, Kishangarh who committed the case to the Court of Sessions. After hearing the submissions of the counsel for the accused-appellant and Public Prosecutor, the learned trial court framed charges against the accused appellants under Sections 302, 323 and 447 I.P.C., in the alternative, charge under Section 302/34 IPC was also framed. The charges were readover and explained to the accused, to which they denied and claimed trial.

5. The prosecution in support of its case, examined as many as 20 witnesses. The trial court examined the accused persons under Section 313 Cr.P.C. for the purpose of enabling them personally, to explain circumstances appearing against them in the evidence. The accused persons did not choose to examine any witness in defence. After completion of trial, the learned Additional Sessions Judge having found the accused appellants guilty of the offences charged with, convicted and sentenced them as aforesaid.

6. We have heard, the rival contentions of the respective parties.

7. In assailing the conviction, the learned Counsel for the accused appellant has argued that learned trial Court acquitted all the accused appellants of the offence under Sections 447, and, therefore, the accused persons cannot be said to have reached the complainant party at the place where they were irrigating their fields, but on the contrary, it was the complainant party who went to the point of canal where the accused persons were diverting the water to their field. Thus the member of the complainant party were aggressors.

8. The learned Counsel has further argued that the occurrence took place at the spur of moment simply on the point as to who will irrigate the field first and during the process, both the parties inflicted injuries to each other he submitted that the prosecution could not explain the injuries of the accused appellants. According to him, this was a case of free fight in which only those persons who are proved to have inflicted injuries or caused death can be held guilty of the offence individually committed by them. In the present case the learned trial court has also come to a conclusion and recorded a finding on the basis of prosecution evidence that it could not be established as to which injury was caused by whom and therefore, none of the appellants could be convicted for offence charged with.

9. He has further argued that there was no previous enmity between the parties and only one Lathi blow was inflicted to each deceased and as such no inference of common intention to cause death could be drawn and in the facts and circumstances of the case the offence does not travel beyond Section 325 I.P.C. Lastly, he has argued that the accused inflicted the injuries on deceased Badha and Ratan and injured Harji in self defence as the complainant party was aggressor and accused appellant also suffered injuries during the incident.

10. At the cost of repeatation, counsel for the accused appellant has submitted that the dispute flared up all of a sudden on a trivial question of diverting the water. The assault on the complainant party was not pre-planned and from the evidence on record, the prosecution has not been able to prove that the killing was not in furtherance of the common intention.

11. On the other hand, the learned Public Prosecutor has controverted the arguments advanced by the learned Counsel for the accused appellant and

argued that on the basis of prosecution evidence, in particular the statement of Harji injured, which finds corroboration by medical evidence and recovery of Phawads from the accused persons at their instance and information under Section 27 of the Evidence Act and the report of FSL indicating the presence of human blood on the recovered articles, it has been proved beyond any shadow of doubt that the accused persons are guilty of the offences charged with and the learned trial court has rightly convicted them.

12. Before advertng to and appreciating the rival contentions of the respective parties, it would be proper to refer the relevant prosecution evidence.

13. PW.10 Harji in his deposition has stated that on the day of incident at about 4:30 P.M. when he alongwith Ratan and Badha was irrigating their filed, Ratan S/o Rameshwar, Madan @ Madha and Sawra came there having Lathis and Phawdas in their hands. They turned the course of water to their field by breaking the Odha. When he prevented them from doing so, accused Ratan inflicted Lathi blow on his head and shoulder, accused Sawra inflicted injury on his hand by blunt and opposite side of Phawda. Thereafter, they stared beating his brother Ratan and Badha. On hearing his cries Bhanwar and Raghunath came on the spot and when Bhanwar tried to intervene, Madan inflicted Lathi blow on his shoulder. Badha died on the spot. The condition of Ratan became precarious. At the time of incident Goga S/o Ratan was also there in the field and Mangi Lal S/o Kishan was also grazing the goats nearby. He sent Goga and Mangi Lal to the Village. Chhitar, Mangla and Shioji reached at the place of incident. Chhitar, mangla, Vishram and Meva took him and Ratan to the Government Hospital, Kishangarh in a Jeep, where police recorded his statement Ex.P,6. He was also medically examined in the Hospital. His clothes were also seized by police in the hospital.

14. PW.16 Raghunath has deposed that at about 4.30 PM when he alongwith Bhanwar was grazing his goats, Ratan, Madan and Sawara accused came there and turned curse of water to their field and when his uncle Harji prevented them to do so, accused Ratan inflicted Lathi blows on Hariji's head thereafter, all the three accused inflicted injuries on Ratan, Badha and Harji by Phawdas and Lathis. Accused Ratan also inflicted Lathi blow on Bhanwar's shoulder. However, in cross-

examination the witnesses has admitted that incident took place before he reached on the spot and thus, this witness is not in a position to state that which accused is not in a position to state that which accused caused which injury to injured persons.

15. PW.7 Goga Ram has also stated that at about 4.30 PM, accused persons duly armed with Lathis and Phawdas in their hands came to their field and turned the course of water. When prevented by Harji the accused inflicted injuries to Harji, Ratan and Badha, but in cross-examination he could not explain as to which accused caused which injuries to the injured persons.

16. PW.18 Bhanwar although in his examination in chief has described the incident, but in cross-examination he has admitted that the incident took place before his arrival on the spot and he could not state as to which accused caused which injury to the injured persons.

17. PW.1 Dr. P.C. Niyasi, on 27.10.1996 conducted the post mortem on the dead body of Badha and found lacerated wound 2' x 1/2' x bone deep on parieto occipital region. Reflection of scalp layer shows visible haematoma about 3' & 1/2' x 2' on occipital extending from cervical (C) to upward. Removal of clots also reveals fissure fracture V shaped about 2' each flanks of V. Opening of vault shows extra dural haematoma corresponding to fracture. The witness has opined that cause of death was coma as a result of head injury and all the injuries were anti mortem in nature. The witness has also conducted post mortem on the dead body of Ratan S/o Shyokaran and found bleeding from left side of mouth angle swelling of 3' x 2' inch on left temporal regions, lacerated wound 2' x 1/2' x bone deep on tempo parietal region. On dissection of scalp, reflection of scalp layer shows visible haematoma about 6' x 1' extending from right to left mastoid process (transvers), removal of clots revealed fissure fracture extending from left temporal region including left and right parito bone deep parallel to suture line measuring about 6' in length. Opening of vault scalp shows extra dural haematome corresponding to fracture. The witness has opined that the cause of death was 'coma' as a result of head injury and all injuries were anti mortem in nature. The witness has also opined that injuries present on the body of deceased Badha and

Ratan were sufficient to cause death in the ordinary course of nature.

18. PW.15 Dr. P.C. Patni examined injured Harji on 26.10.1996 vide Ex.P.25 and found following injuries on his body:

- (1) Lacerated wound 5x2x1 cm. on scalp left side.
- (2) Lacerated wound 2.5 x 1 x 1/2 cm. on scalp left side.
- (3) Bruise 3x2 cm. on right shoulder.
- (4) Bruise 4x2 cm. on left shoulder.

19. On the same day at 9.30 P.M. Dr. Patni has also examined Ratan S/o Shyokaran and found following injuries on his body:

- (1) Lacerated wound 5x1.25 x bone deep on left tempo parietal region.
- (2) Bruise 7.5 x 5 cm. on left parietal region.
- (3) Patient was complaining pain on both hip joints. The witnesses opined that at the time of examination, the condition of the injured was precarious.

20. PW.6 Suraj Karan and PW.7 Shyoji reached at the spot just after the incident on being informed by a child and saw the dead body of Badha, and injured Ratan and Harji in a precarious condition.

21. PW.8 Gopi also reached at the spot on hearing cries and saw the dead body of Badha and injured Harji and Ratan in a precarious condition. This witness has been declared hostile.

22. PW.9 Ghisa Lai did not support the prosecution story, so he was also declared hostile.

23. PW.11 Vishna and PW.13 Rameshwar S/o Dalu are Motbirs of 'Panchanama' Ex.P.12 of the dead body of Badha. PW.12 Meva Ram is also Motbir of 'Panchanama' of the dead body of Ratan. PW.14 Chhitar reached at the spot on being informed by Goga and Mangu about the incident and saw Badha lying dead.

He also saw Ratan and Harji having injuries on their body. He brought Ratan and Harji to the Government Hospital, Kishangarh in a Jeep, from where Ratan was referred to S.M.S. Hospital, Jaipur but on way to Jaipur Ratan succumbed to injuries.

24. PW.19 Dhira is a Motbir of Ex.P.17 by which the Turban, Shaul, Baniyan and Dhoti of injured Harji were taken in a possession by the Investigating Officer.

25. PW.20 Abhay Singh is the Investigating Officer who received information on wireless about the admission of Ratan S/o Shyokaran in the Government Hospital, Kishangarh in a serious condition. After receiving the information, he proceeded to the Hospital on 26.10.1996 at 8.30 P.M. The entry of which is Ex.27 in 'Rojnamcha'. He recorded Ex.P.6 the statement of injured Harji. On 27.10.1996 at about 6.30 A.M. he inspected the site and prepared a site plan Ex.P.29 and site note Ex.30. He also prepared Ex.P.31 site plan showing arrangement for irrigating the fields. He also prepared 'Panchanama' Ex.P.12 and Ex.P.13 of deceased Badha and Ratan respectively. He took in possession the blood smeared soil and control soil, woolen blanket Loongri, piece of cot, one pair of Chappal from the place of occurrence and prepared Ex.P.14. He also took in possession the blood stained clothes of deceased Badha, Ratan and injured Harji vide Ex.P.15, Ex.P.16 and Ex.P.17 respectively.

26. During investigation, he arrested Madan, Ratan and Sawra vide arrest memos Ex.P.19, Ex.P.20 and Ex.P.21 and on there information he prepared information memos Ex.P.33, Ex.P.34 and Ex.P.35 respectively. At their instance and from their posession he recovered Phawdas vide recoveries memos Ex.P.22, Ex.P.23 and Ex.P.36 respectively. He also prepared Ex.P.18 site plan of the place of recoveries.

27. Dr. P.C. Nyasi conducted post mortem of deceased Badha and found lacerated wound on parieto occipital region and fissure fracture V. Shaped and extra dural haematoma corresponding to fracture. Dr. Nyasi also conducted the post mortem of deceased Ratan and found swelling on left temporal region and lacerated wound on left tempo parietal region and fracture extending from left to right temporal region including left and right parito region parellel to suture line. Dr.

Nyasi has opined that injuries present on the body of deceased Badha and Ratan were anti mortem in nature and were sufficient to cause death in the ordinary course of nature and the cause of death was coma due to injuries.

28. From the evidence discussed above, it is evident that Harji is the main eye witness, who also sustained injuries on his body during incident. He is real brother of deceased Badha and whose presence at the scene of occurrence was not disputed. He has described the incident in a clear and graphic manner and he categorically asserted that the accused appellant gave blows with Lathis and Phawdas on the body of deceased Badha and Ratan. He has specifically stated that Ratan inflicted Lathi blows on his head and shoulder and Sawra inflicted Lathi blows on his head by the opposite blunt side of Phawda.

29. This witness was subjected to cross-examination and nothing material could be elicited from him which may cause doubt on his credibility. The learned Trial Judge who had opportunity of marking the demeanour in the Court assessed his evidence and did not find any reason to discard his testimony. He has fully supported the prosecution case and his credibility remains unshaken. The statement of injured Harji also stands fully corroborated by the medical evidence of Dr. P.C. Patni, who found two lacerated wounds on the scalp of Harji and two bruise on right and left shoulder. Dr. Patni also found lacerated wound on left tempo parietal region and bruise on left tempo parietal region of injured Ratan. This statement is further corroborated by the post mortem reports of deceased Badha and Ratan Ex.P.4 Ex.P.5 respectively. The medical board comprising three doctors including Dr. Nyasi opined that cause of death of deceased Badha was coma as a result of head injury. All injuries were anti mortem in nature. Likewise, the board also opined that the cause of death of deceased Ratan was coma as a result of head injuries. All injuries were anti mortem in nature.

30. The statement of Harji is further corroborated by the recovery of Phawdas from the possession and at the instance of the accused appellants. The other witnesses who reached at the spot just after the incident also saw Badha in a dead stage and Harji and Ratan having injuries on their body.

31. Thus from a careful scrutiny of the entire evidence, in particular the statement of injured Harji, which is corroborated in all material particulars, we are of the considered opinion that it stands proved that the accused appellants collectively arrived at the place of occurrence duly armed with Phawadas and Lathis, where the injured persons were already there and irrigating their field and immediately after some altercation on the point of diverting the water, they started beating the members of the complainant party mercilessly with their respective weapons and caused severe injuries on the vital part of the persons of complainant party resulting into injuries to Harji and death of two persons namely Badha and Ratan, one died on the spot and the later succumbed to injuries while on way to Hospital at Jaipur.

32. As regards the argument of the learned Counsel for the accused appellant that non-explanation of injuries on the persons of accused is fatal to the prosecution case, we must observe that it is settled proposition of law that if injuries inflicted on accused appellants during the alleged incident are not of superficial nature then non-explanation of injuries shows that prosecution witnesses are not truthful and are not coming forward with their true version and happening of the incident. In the instant case, Dr. P.C. Nyasi who had examined accused Madan, Sawara and Ratan S/o Rameshwar found only abrasions and bruises on their body as would be evident from a perusal of their injury reports Ex.P.1, Ex.P.2 and Ex.P.3. Thus it is crystal clear that the injuries found on the persons of accused appellants were minor in nature and since they were restricted only to bruises and abrasions, we are of the view that non-explanation of injuries found on the person of accused appellant, in the facts and circumstances of the present case cannot at all be said to be fatal to the prosecution case.

33. Learned counsel for the accused appellant has contended that this is a single injury case in which accused appellants could not have been convicted under Section 302 read with Section 34 I.P.C. While dealing with a case of single injury, the Hon'ble Supreme Court in Jagrup Singh v. State of Haryana 1981 S.C.C. (Cr.) 768 observed that there is no justification for the assertion that the giving of a solitary blow on a vital part of the body resulting in death must always necessarily reduce the offence to culpable homicide not amounting to murder punishable

under Section 304, Part II of the Code. If a man deliberately strikes another on the head with a heavy log of wood or an iron rod or even a Lathi so as to cause a fracture of the skull, he must, in the absence of any circumstances negating the presumption, be deemed to have intended to cause death of the victim or such bodily injury as is sufficient to cause death. The whole thing depends upon the intention to cause death, and the case may be covered by either clause Firstly or clause Thirdly. The nature of intention must be gathered from the kind of weapon used, the part of the body hit, the amount of force employed and the circumstances attendant upon the death.

34. The Apex Court again had an opportunity to examine the issue in the case of State of Karnataka v. Vedanayagam 1995 Cr.L.R. (SC) 69 and observed that it is fallacious to contend that wherever there is a single injury only a case of culpable homicide is made out irrespective of other circumstances.

35. It is settled proposition of law that in a single injury case also accused can be convicted under Section 302 I.P.C. if from the prosecution evidence, it is proved that intention is to cause death or to cause a particular injury which is sufficient in the ordinary course of nature to cause death. In the present case accused appellants came at the place of occurrence duly armed with Lathis and Phawdas and tried to change the course of water from the field of the complainant party to their field. On intervention by Harji, they inflicted Lathi and Phawdas blows on the head of deceased Badha and Ratan and also on the body of injured Harji. If their intention would have been only to change the course of water then there was no occasion of the accused appellants being armed with Lathis. This fact clearly shows intention of the accused appellants and they had no right to change the course of water from the field of the complainant party to their field as is evident from a perusal of Ex.P.31 showing arrangement relating to irrigation of the field, which shows that the 'Odha' in dispute is meant to irrigate the field of the complainant party and the accused appellants having course of water to their field on the other side.

36. From the evidence discussed above, it stands proved that the accused appellant inflicted injuries on the head of deceased Badha and Ratan on the vital

part of their body. The amount of force they employed can be visualized by the fact that both the deceased suffered fractures corresponding to their injury. The scope of Clause Thirdly of Section 300 I.P.C had been the subject matter of decisions of the Apex Court in Virsa Singh v. State of Punjab 1958 SCR 1495 and on analysing clause thirdly, it was held in the case as under:

First, it must establish, quite objectively, that a bodily injury is present.

Secondly, the nature of the injury must be proved; these are purely objective investigations.

Thirdly, it must be proved that there was an intention to inflict that particular bodily injury, that is to say, that it was not accidental or unintentional, or that some other kind of injury was intended.

Once these three elements are proved to be present, the enquiry proceeds further and,

Fourthly, it must be proved that the injury of the type just described made up of the three elements set out above is sufficient to cause death in the ordinary course of nature. This part of the enquiry is purely objective and inferential and has nothing to do with the intention of the offender.

37. As to how the intention is to be inferred even in a case of single injury, it was further held as under:

The question is not whether the prisoner intended to inflict a serious injury or a trivial one but whether he intended to inflict the injury that is proved to be present if he can show that he did not, or if the totality of the circumstances justify such an inference, then, of course, the intent that the section requires is not proved. But if there is nothing beyond the injury and the fact that the appellant inflicted it, the only possible inference is that he intended to inflict it. Whether he knew of its seriousness, or intended serious consequences, is neither here nor there. The question, so far as the intention is concerned, is not whether he intended to kill, or to inflict an injury of a particular degree of seriousness, but whether he intended to inflict the injury in question; and once the existence of the injury is proved the

intention to cause it will be presumed unless the evidence or the circumstances warrant an opposite conclusion. But whether the intention is there or not is one of fact and not one of law. Whether the wound is serious or otherwise, and if serious, how serious, is a totally separate and distinct question and has nothing to do with the question whether the prisoner intended to inflict the injury in question.

38. If we consider the present case in the light of the observations of the Apex Court quoted above, we are of the firm opinion that in the facts and circumstances of the present case, it is established beyond any shadow of doubt that the accused appellants inflicted injuries on the vital part i.e. head of the body of two deceased persons. It has also been proved that the injuries caused to the deceased persons were neither accidental nor unintentional. Once the existence of the injuries on the person of deceased is proved, the intention to cause it will be presumed unless the evidence or the circumstances warrant an opposite conclusion. There is no evidence or circumstances to draw some other conclusion except that the appellants intended to inflict injuries resulting in death of the deceased. From the totality of the circumstances, the only possible inference to be drawn by us is that the appellants caused bodily injuries with an intention to cause death.

39. Lastly, the learned Counsel for the accused appellants has argued that there was no previous enmity and the occurrence took place at the spur of moment simply on the point of irrigating the field first and both the parties inflicted injuries to each other. This is a case of free fight and complaining party being aggressor, the common intention to cause death cannot be attributed to the accused appellants as they have also sustained injuries. Thus they inflicted injuries in their self defence. Learned counsel, in support of his arguments has placed reliance on a judgment of the Division Bench of this Court in *Ashgar Khan and Anr. v. State of Rajasthan* RLR 1992 (1) 353 and *Seriyal Udayar v. State of Tamil Nadu* : 1987 CriLJ1058 .

40. From the statement of Harji, it is proved that accused appellants without any rhyme or reason proceeded at the point of canal through which the complainant parties are irrigating their field and tried to break the 'Odha' and therefore, it cannot be said that the members of the complainant party were aggressors. The

complainant party simply asked them not to break the 'Odha' and on intervention, accused appellant inflicted injuries on the persons of the deceased Badha, Ratan and injured Harji, so this was not a case of free fight or self defence. There was no injury much less any serious injury which may even prompt a person to take the most heinous step of committing the murder. The accused appellant arrived at the scene of occurrence duly armed with Lathis and Phawdas and left the place of occurrence after inflicting injuries together, so their common intention to cause the death of Ratan and Badha can legitimately be inferred. We are fortified in our view by the decision of the Apex Court in (SC) Rajesh Govind Jagesha etc. v. State of Maharashtra 1999 (4) Crimes 331, the Apex Court while explaining the distinction between common intention and common object has held that no pre-meditation or previous meeting of mind is necessary for the applicability of Section 34 of the I.P.C. The existence of common intention can be inferred from the attending circumstances of the case and the conduct of the parties. No direct evidence of common intention is necessary. For the purpose of common intention even the participation in the commission of the offence need not be proved in all cases. The common intention can develop even during the course of an occurrence.

41. We have carefully gone through the authorities cited by the counsel for the appellants and we are of the view that the same are of no help to the accused as the facts of those cases are totally distinguishable from the facts of the present case.

42. In the case in hand, the accused appellant came together duly armed with Lathis and Phawdas and left the place of incident together after inflicting injuries on the complainant party. Their participation in the commission of the offence with their common intention to cause the death of Badha and Ratan and to cause injuries to Harji is fully proved from their conduct and from the facts and circumstances narrated above. The injuries caused to deceased Badha Ratan were sufficient in the ordinary course of nature to cause death. The learned trial court, in our considered opinion was justified in convicting and sentencing the accused appellants. The conviction of the appellants, therefore, deserves to be maintained.

43. The result of the above discussion is that this appeal fails and is hereby dismissed. The conviction and sentence awarded to the appellants for offence under Section 302 read with Section 34 and Section 323 IPC are maintained.

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