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**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL APPEAL No. - 831 of 2005

Mangli and 2 Ors.

.....Appellant(s)

Versus

State of U.P

.....Respondent(s)

Counsel for Appellant(s)	: Shishir Pradhan,
Counsel for Respondent(s)	: Govt. advocate,

Court No. - 23

HON'BLE PRAMOD KUMAR SRIVASTAVA, J.

1. Heard, learned counsel for the appellant and learned AGA for the State.
2. The present criminal appeal under Section 374 (2) of the Code of Criminal Procedure (Cr.P.C.) has been preferred against the impugned judgment and order dated 20.05.2005 passed by the Additional Sessions Judge, Court No. 7, Raebareli in Sessions Trial No. 387/2003 (arising out of Case Crime No. 225/2001), under Sections 304/34, 323/34, 504, and 506 of the IPC, Police Station Bachhrawan, District Raebareli, whereby the appellants Mangali, Maiku Lal, and Buddhi Lal have been convicted and sentenced to 10 years of rigorous imprisonment along with a fine of Rs. 5,000/- each.
3. Brief facts of the case are that on 05.07.2001, at about 10-11 PM, a dispute regarding the distribution and sale of a pumping set arose between the complainant, Ram Lakhan, and the accused persons. In this connection, they were not agreed on one point. Then, the accused

persons hurled abuses at the complainant. At that time, accused Mangli and Buddhi Lal, having lathis in their hands, accused Maiku Lal, having an iron rod, and accused Ram Dulare, having a small axe, gathered at the door of Ram Lakhan and inflicted blows. When the situation escalated, the informant's wife, Parmeshwari, and her son, Ram Prakash, reached to intervene, but the accused persons inflicted blows to them also. Upon hearing the hue and cry, villagers Ram Avtar, Gaurey, and others arrived; then the accused persons threatened the informant and others to kill them and fled away.

4. The Investigating Officer, during the course of the investigation, visited the place of occurrence, prepared the site plan, and recorded the statements of the witnesses. Upon completion of the investigation, a charge sheet was submitted against the accused persons under Sections 304, 323, 504, and 506 I.P.C. at Police Station Bachhrawan, District Raebareli.

5. The trial court framed charges against the accused persons—Mangali, Maiku Lal, and Buddhi Lal—under Sections 304/34, 323/34, 504, and 506 I.P.C. The accused persons denied the charges levelled against them and claimed to be tried.

6. In order to prove its case, the prosecution examined several witnesses, including the main eye-witness and complainant Smt. Parmeshwari (PW-1), Ram Lakhan (PW-2), and Dr. P.K. Singh (PW-5), who conducted the medical examination of the injured. The documentary evidence filed by the prosecution included the Tehrir (Exhibit Ka-1), Chik F.I.R. (Exhibit Ka-2), Post-Mortem Report (Exhibit Ka-4), and the Site Plan (Exhibit Ka-5).

7. After the conclusion of the prosecution evidence, the statements of the accused/appellants under Section 313 Cr.P.C. were recorded. The trial court explained the incriminating evidence to them, which the appellants denied, maintaining that they had been falsely implicated due to a dispute over the distribution of tubewell/boring money and the construction of a path in the village.

8. Thereafter, the learned trial court, after hearing the counsel for both parties and appreciating the oral and documentary evidence, found the appellants guilty. The court convicted Mangali, Maiku Lal, and Buddhi Lal under Section 304/34 I.P.C. (sentencing them to 7 years rigorous imprisonment and a fine of ₹2,000 each) along with convictions under Sections 323, 504, and 506 I.P.C.

9. Feeling aggrieved and dissatisfied with the impugned judgment and order of conviction dated 20.05.2005, the accused-appellants have preferred the present appeal before this Court.

10. Learned counsel appearing for the appellants contended that the learned trial court failed to consider the injuries sustained by the accused persons, which were documented via *mazroobi chitthi* at the police station. It is further submitted that the prosecution failed to prove that the appellants shared a common intention to kill the deceased under Section 34 IPC. The record indicates that the fatal blow with an axe (*Kulhari*) was specifically attributed by the prosecution witnesses to the co-accused, Ram Dulare, whose proceedings stood abated due to his death during the trial. Furthermore, during the pendency of this appeal, appellant no. 1, Mangali, has also died, leaving the appeal to survive only for appellants Maiku Lal and Buddhi Lal. According to the prosecution's own case, Maiku Lal was armed with a 'Sariya' (iron rod) and Buddhi Lal with a 'Lathi.' However, the medical evidence, including the statement of the doctor and the post-mortem report, indicates that the ante-mortem head injuries causing death were not consistent with the weapons allegedly carried by these two surviving appellants. It is further contended that the incident occurred on the spur of the moment during a sudden free fight over a tubewell/boring money dispute, lacking any premeditation or prior enmity. Since the prosecution failed to explain the multiple injuries sustained by the accused side—which were admitted by prosecution as being caused on the same day—the findings of the trial court are erroneous, and an offence under Section 304 IPC is not made out against the surviving appellants.

11. Per contra, the learned AGA vehemently argued that the prosecution has adduced sufficient and clinching evidence before the trial court, proving its case beyond a reasonable doubt. He further submitted that the role of the appellants, acting in concert with other co-accused, is clearly established on record. The evidence demonstrates a common intention to commit the offence, which manifested at the time of the assault. The accused persons, armed with deadly weapons including a kulhari (axe) and sariya (iron rod), inflicted fatal blows upon the deceased, Ram Dulare.

12. The learned AGA contended that common intention under Section 34 IPC can develop spontaneously at the spot and does not require prior meeting of minds or pre-planning. Furthermore, he submitted that the injuries allegedly sustained by the accused side were superficial in nature; the mere non-explanation of such minor injuries does not render the prosecution's case unbelievable. Highlighting the trial court's finding that the appellants were the aggressors, he maintained that the judgment is in total consonance with the facts, evidences and circumstances of the case. He concluded that the impugned judgment suffers from no illegality or perversity, and the present appeal, being devoid of merit, is liable to be dismissed.

13. I have considered the rival contentions raised by the parties and the material available on record. The FIR (Case Crime No. 225/2001) specifies that the accused persons—Mangli and Buddhi Lal, armed with lathis; Maiku Lal, armed with a sariya; and Ram Dulare, armed with a small axe (kulhari)—arrived at the doorstep of the complainant and inflicted fatal blows upon the deceased. It is alleged that they hurled abuses and assaulted Ram Lakhan; when the complainant, Parmeshwari, and her son, Ram Prakash, attempted to intervene, the appellants inflicted blows upon them as well.

14. In her testimony, Parmeshwari (PW-1), the wife of the deceased, reiterated the facts stated in the FIR. However, during cross-examination (as noted on page 16 of the evidence), she stated the occurrence took

place between 10:00 PM and 11:00 PM but failed to disclose a specific source of light. Furthermore, she claimed the assailants were nine in numbers and armed with lathis, Sariya, and kulharis, all of whom purportedly struck the deceased. On page 17 of the evidence, she explicitly denied the injuries inflicted upon the accused side by her party. She further attributed specific roles to the accused, stating that Ram Dulare inflicted blows upon her and used an axe to strike Ram Lakhan's body. She testified that the axe injuries to the head consisted of four deep blows. This account, provided by the complainant as an eyewitness, specifically identified Ram Dulare as the individual inflicting the axe blows to the deceased's head. It is also expedient to mention that both parties are close relatives, and the genesis of the dispute was a disagreement regarding the distribution of money obtained from the sale of a pumping set/boring machine.

15. The prosecution witness Ram Prakash (PW-2), son of the deceased, testified that while his father, Ram Lakhan, was sitting on a cot (charpai), the co-accused Ram Dulare (who died during the trial) initiated the assault by inflicting axe (kulhari) blows on Ram Lakhan's head. This caused Ram Lakhan to fall to the ground, thereafter Ram Dulare inflicted 3–4 additional axe blows on his head. The witness further attributed specific roles to the present appellants, stating that Maiku Lal (Maku) struck the deceased with a sariya (iron rod) and Buddhi Lal used a lathi (stick). According to the medical testimony of Dr. L.S. Mahmood (PW-5), who conducted the post-mortem, an internal examination revealed a fracture of the right parietal bone of the skull. Dr. Mahmood categorically opined that the death of Ram Lakhan was caused by a coma resulting from these ante-mortem head injuries.

16. The evidence indicates that while the fatal blows were attributed to the use of an axe, the present appellants participated in the altercation. The parties reside in close proximity and are near relatives; the dispute was rooted in a disagreement over the distribution of money from the sale of a pumping set (boring). The circumstances suggest a sudden gathering where an altercation and mutual abuse escalated into a

physical fight. Notably, members of the accused side also sustained multiple injuries as specifically, the appellant no. 1, Mangali sustained a lacerated wound on the left side of the face/forehead and complained of internal pain, as noted in the injury report prepared via mazroobi chitthi, the appellant no. 2, Maiku Lal sustained a total of 8 injuries, primarily consisting of contusions and abraded contusions on the head and dorsal aspects of the body and the appellant no.3, Buddhi Lal sustained a traumatic injury upon the head, for which the examining doctor advised an X-ray to rule out a fracture. While the prosecution admitted these injuries occurred during the same transaction, they failed to provide a sufficient explanation regarding the manner in which the accused persons were injured, thereby casting doubt on the prosecution's version as the sole aggressor and finding given in this regard is erroneous.

17. In view of the given facts, evidence and circumstances, it is clear that a sudden and free fight between the parties took place at the spur of the moment. In such a scenario, the persons involved therein would be liable for their individual acts and not vicariously liable for the acts of others. This law has been laid down in **Pundalik mahadu Bhane and Others Vs. State of Maharashtra: (1998) SCC (Cri) 202**. In that judgment, the law laid down in the cases of **Lalji vs. State of U.P.: (1974) 3 SCC 295** and **Ishwar Singh vs. State of U.P.: (1976) 4 SCC 355** was relied upon. It was stated that in the case of a sudden and free fight, each person involved can be held liable only for his individual act and not vicariously for the acts of others.

“6. After having gone through the entire record we are of the opinion that the above concurrent findings of the learned courts below are substantially correct and are based upon reasonable appreciation of the evidence. But then, having recorded such findings the learned courts below were not justified in convicting the appellants for rioting, for the law is now well settled that in the case of a sudden and free fight each of the persons involved therein can be held liable for his individual act and not vicariously liable for the acts of others. (Lalji v. State of U.P. [(1974) 3 SCC 295 : 1973 SCC (Cri) 921 : AIR 1973 SC 2505] , Ishwar Singh v. State of U.P. [(1976) 4 SCC 355 :

1976 SCC (Cri) 629 : AIR 1976 SC 2423]) The convictions of the two surviving appellants under Section 148 IPC cannot, therefore, be sustained.”

18. Furthermore, in **Darshan Singh & Others vs. State of Punjab: (2009) 16 SCC 290**, the court relied on the judgment rendered in **Jai Bhagwan vs. State of Haryana: (1999) 3 SCC 102**, which laid down the principles for the application of Section 34 IPC. The relevant paragraphs 7, 8, and 10 are reproduced as under:-

“7. In Jai Bhagwan v. State of Haryana [(1999) 3 SCC 102 : 1999 SCC (Cri) 388] this Court of which one of us (Quadri, J.) was a member, laid down the principle for application of Section 34 IPC as follows: (SCC p. 107, para 10)

“10. To apply Section 34 IPC apart from the fact that there should be two or more accused, two factors must be established: (i) common intention, and (ii) participation of the accused in the commission of an offence. If a common intention is proved but no overt act is attributed to the individual accused, Section 34 will be attracted as essentially it involves vicarious liability but if participation of the accused in the crime is proved and a common intention is absent, Section 34 cannot be invoked. In every case, it is not possible to have direct evidence of a common intention. It has to be inferred from the facts and circumstances of each case.”.

8. To apply Section 34 IPC to the facts of this case, there is no direct evidence of common intention. On the facts and circumstances stated above, it is neither safe nor possible to infer that the appellants had common intention to kill either PW 5 or his wife, the deceased. In such a case they will have to be convicted on the basis of their individual acts..

10. Insofar as Appellants 2 and 3 are concerned, there is absolutely no evidence to show that they shared common intention to kill the deceased Rajinder Kaur or her husband PW 5 or attempt to murder PW 4. In the absence of common intention Appellants 2 and 3 could not have been found guilty of murder of Rajinder Kaur or attempt to murder PW 4. They inflicted simple injury with lathis on PW 4. Those injuries were stated to be simple in nature by PW 3. For these reasons, the conviction of Appellants 2 and 3 under Sections 302 and 307 read with Section 34 IPC, cannot be sustained; it is, therefore, set aside. However, their conviction under Section 323 IPC and their release on probation for causing injuries to PW 5 recorded by the trial court is restored.”

19. In view of the law laid down by the Hon’ble Apex Court, the case in hand demonstrates that there is absolutely no evidence to show that the accused-appellants shared a common intention to kill the deceased,

Ram Dulare. Since the injuries found on the body of the deceased, with the exception of the head injury, were simple in nature, the findings given by the Trial Court regarding the conviction of the present appellants under Section 304 IPC read with Section 34 IPC cannot be sustained and should, therefore, be set aside. However, the findings in respect of Sections 323 and 504 IPC is liable to be upheld.

20. Learned counsel for the appellant submitted that the State of Uttar Pradesh has its own local law of probation i.e. Uttar Pradesh First Offenders Probation Act, 1938. He further submitted that the Probation of Offenders Act, 1958 (Central Act) (herein after referred as the Act of 1958) is also applicable in the State of Uttar Pradesh as held by Hon'ble the Supreme Court in the case of **Mohd. Hashim Vs. State of U.P.; (2017) 2 SCC 198**. Thus, learned counsel for the appellant submitted that it is upon the discretion of the Court to grant benefits in either of the Acts.

21. Learned counsel for the appellants submitted that the incident occurred on July 5, 2001, nearly 24 years ago, and there are no recorded criminal antecedents against the appellants since that time. It was argued that the long delay in the trial and the subsequent appeal process has adversely affected the appellants' right to a speedy trial. Counsel further emphasized that the appellants are first-time offenders with no previous convictions in any other case. Consequently, it was prayed that the Court may consider extending the benefit of Section 4 of the Probation of Offenders Act, 1958, allowing the appellants the benefit of release on probation of good conduct instead of sentencing them to immediate imprisonment.

22. On the other hand, the learned A.G.A. for the State has vehemently opposed the appeal, submitting that the impugned judgment does not suffer from any material irregularity or illegality. He further contended that the trial court, after a thorough appreciation of the ocular and medical evidence on record, has rightly held the accused-appellants

guilty. It was emphasized that the testimony of the eye-witnesses, including Smt. Parmeshwari (PW-1) and Ram Lakhan (PW-2), remains consistent regarding the participation of the appellants, and as such, the conviction warrants no interference by this Court.

23. Before dealing with the contention of learned counsel for the appellant, it is useful to quote Sections 3 and 4 of the Probation of Offenders Act, 1958:

"3. Power of court to release certain offenders after admonition.-

"Where any person is found guilty of having committed an offence punishable under Section 379 or Section 380 or Section 381 or Section 404 or Section 420 of the Indian Penal Code, (45 of 1860) or any offence punishable with imprisonment for not more than two years, or with fine, or with both, under the Indian Penal code, or any other law, and no previous conviction is proved against him and the Court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence, and the character of the offender, it is expedient so to do, then, notwithstanding anything contained in any other law for the time being in force, the Court may, instead of sentencing him to any punishment or releasing him on probation of good conduct under section 4 release him after due admonition.

Explanation.-For the purposes of this Section, previous conviction against a person shall include any previous order made against him under this Section or Section 4.

4. Power of Court to release certain offenders on probation of good conduct.- (1) *When any person is found guilty of having committed an offence not punishable with death or imprisonment for life and the Court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient to release him on probation of good conduct, then, notwithstanding anything contained in any other law for the time being in force, the court may, instead of sentencing him at once to any punishment direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period, not exceeding three years, as the Court may direct, and in the meantime to keep the peace and be of good behaviour:*

Provided that the Court shall not direct such release of an offender unless it is satisfied that the offender or his surety, if any, has a fixed place of abode or regular occupation in the place over which the Court exercises jurisdiction or in which the offender is likely to live during the period for which he enters into the bond."

24. Section 4 of the Act of 1958 is applicable where a person is found guilty of committing an offence where punishment is neither life

sentence nor death. The Court may release such an accused on probation of good conduct on his furnishing a bond as mentioned in the Section. The Court in applying the provisions of this section is also required to consider the circumstances of the case, character of the offender and nature of the offence before exercising its discretion.

25. So far as the prayer of learned counsel for the appellant for providing benefits of Section 4 of the Act of 1958 is concerned, it is essential to discuss the legal position and law propounded by the Apex Court.

26. That Hon'ble Supreme Court in **Ratan Lal vs State of Punjab AIR 1965 SC 444**, while discussing the purpose and object of Probation of Offenders Act, 1958, has observed in para no. 4, as follows:—

"4. The Act is a milestone in the progress of the modern liberal trend of reform in the field of penology. It is the result of the recognition of the doctrine that the object of criminal law is more to reform the individual offender than to punish him. Broadly stated the Act distinguishes offenders below 21 years of age and those above that age, and offenders who are guilty of having committed an offence punishable with death or imprisonment for life and those who are guilty of a lesser offence. While in the case of offenders who are above the age of 21 years, absolute discretion is given to the court to release them after admonition or on probation of good conduct, subject to the condition laid down in the appropriate provision of the Act, in the case of offenders below the age of 21 years an injunction is issued to the court not to sentence them to imprisonment unless it is satisfied that having regard to the circumstances of the case, including the nature of the offence and the character of the offenders, it is not desirable to deal with them under Ss. 3 and 4 of the Act."

27. Further the Hon'ble Supreme Court in the case of **Ved Prakash vs State of Haryana (1981) 1 SCC 447 : AIR 1981 SC 643** while discussing on the duty of Bench and Bar regarding compliance of Section 360 Code of Criminal Procedure read with Section 4 of Probation of Offenders Act, 1958 was pleased to observe as under:—

"The offence, for which conviction has been rendered, is one which will be attracted by S. 360 or at any rate the Probation of offenders Act, 1958. The materials before us are imperfect because the Trial Court has been perfunctory in discharging its sentencing functions. We must emphasise that sentencing an accused person is a sensitive exercise of discretion and not a routine or mechanical prescription acting on hunch."

The Trial Court should have collected materials necessary to help award a just punishment in the circumstances. The social background and the personal factors of the crime-doer are very relevant although in practice Criminal Courts have hardly paid attention to the social milieu or the personal circumstances of the offender. Even if S. 360 Cr.P.C. is not attracted, it is the duty of the sentencing Court to be activist enough to collect such facts as have a bearing on punishment with a rehabilitating slant. The absence of such materials in the present case has left us with little assistance even from the counsel. Indeed members of the bar also do not pay sufficient attention to these legislative provisions which relate to dealing with an offender in such manner that he becomes a non-offender. We emphasise this because the legislation which relate to amelioration in punishment have been regarded as 'Minor Acts' and, therefore, of little consequence. This is a totally wrong approach and even if the Bar does not help, the Bench must fulfil the humanising mission of sentencing implicit in such enactments as the Probation of offenders Act."

28. That it is also noteworthy that this Hon'ble Court in the case of **Subhash Chand vs State of U.P. 2015 Law Suit (All) 1343**, has emphatically laid down the need to apply the law of probation and give benefit of the beneficial legislation to accused persons in appropriate cases. This court issued following directions to all trial courts and appellate courts:—

"It appears that the aforesaid beneficial legislation has been lost sight of and even the Judges have practically forgotten this provision of law. Thus, before parting with the case, this Court feels that I will be failing in discharge of my duties, if a word of caution is not written for the trial courts and the appellante courts. The Registrar General of this Court is directed to circulate copy of this Judgment to all the District Judges of U.P., who shall in turn ensure circulation of the copy of this order amongst all the judicial officers working under him and shall ensure strict compliance of this Judgment. The District Judges in the State are also directed to call for reports every months from all the courts, i.e. trial courts and appellate courts dealing with such matters and to state as to in how many cases the benefit of the aforesaid provisions have been granted to the accused. The District Judges are also directed to monitor such cases personally in each monthly meeting. The District Judges concerned shall send monthly statement to the Registrar General as to in how many cases the trial court/appellate court has granted the benefit of the aforesaid beneficial legislation to the accused. A copy of this order be placed before the Registrar General for immediate compliance."

29. Further the Hon'ble Apex Court in **State of Maharashtra vs Jagmohan Singh Kuldip Singh Anand (2004) 7 SCC 659** has extended the benefit of The Probation of Offenders Act, 1958 to the appellants, and observed as under:—

"The learned counsel appearing for the accused submitted that the accident is of the year 1990. The parties are educated and neighbors. The learned counsel, therefore, prayed that benefit of the Probation of Offenders Act, 1958 may be granted to the accused. The prayer made on behalf of the accused seems to be reasonable. The accident is more than ten years old. The dispute was between the neighbors over a trivial issue of claiming of drainage. The accident took place in a fit of anger. All the parties educated and also distantly related. The accident is not such as to direct the accused to undergo sentence of imprisonment. In our opinion, it is a fit case in which the accused should be released on probation by directing them to execute a bond of one year for good behaviour."

30. That coming to the point of desirability of extending the benefit of Probation Act to the accused/ appellants in **Sitaram Paswan and Anr v/ s State of Bihar AIR 2005 SC 3534** Supreme Court held as under:-

"For exercising the power which is discretionary, the Court has to consider circumstances of the case, the nature of the offence and the character of the offender. While considering the nature of the offence, the Court must take a realistic view of the gravity of the offence, the impact which the offence had on the victim. The benefit available to the accused under Section 4 of the Probation of Offenders Act is subject to the limitation embodied in the provisions and the word "may" clearly indicates that the discretion vests with the Court whether to release the offender in exercise of the powers under Section 3 or 4 of the Probation of Offenders Act, having regard to the nature of the offence and the character of the offender and overall circumstances of the case. The powers under Section 4 of the Probation of Offenders Act vest with the Court when any person is found guilty of the offence committed, not punishable with death or imprisonment for life. This power can be exercised by the Courts while finding the person guilty and if the Court thinks that having regard to the circumstances of the case, including the nature of the offence and the character of the offender, benefit should be extended to the accused, the power can be exercised by the Court even at the appellate or revisional stage and also by this Court while hearing appeal under Article 136 of the Constitution of India."

31. That it is also noteworthy that Hon'ble Apex Court in the case of **Mohd. Hashim v. State of U.P and Ors. AIR 2017 SC page 660**, was pleased to observe as under:

"20-.....In Rattan Lal v. State of Punjab AIR 1965 SC 444. Subba Rao, J., speaking for the majority, opined thus:-

"The Act is a milestone in the progress of the modern liberal trend of reform in the field of penology. It is the result of the recognition of the doctrine that the object of criminal law is more to reform the individual offender than to punish him. Broadly stated, the Act distinguishes offenders below 21 years of age and those above that age, and offenders who are guilty of having committed an offence punishable with death or imprisonment for life and those who are guilty of a lesser offence. While in the case of offenders who are above the age of 21 years absolute

discretion is given to the court to release them after admonition or on probation of good conduct, subject to the conditions laid down in the appropriate provisions of the Act, in the case of offenders below the age of 21 years an injunction is issued to the court not to sentence them to imprisonment unless it is satisfied that having regard to the circumstances of the case; including the nature of the offence and the character of the offenders, it is not desirable to deal with them under Sections 3 and 4 of the Act."

32. That Hon'ble Apex Court in case of **Jagat Pal Singh & others vs. State of Haryana AIR 2000 SC 3622** has given the benefit of probation while upholding the conviction of accused persons under Sections 323, 452, 506 I.P.C. and has released the accused persons on executing a bond before the Magistrate for maintaining good behaviour and peace for the period of six months.

33. It is noteworthy that the incident took place way back in the year 2001. The accused-appellants have been embroiled in this legal battle for the past 24 years, and there are no recorded criminal antecedents against them prior to this case.

34. Considering the facts and circumstances of the case, and the nature of the dispute originating from a family disagreement over a tube well, this Court is of the view that the benefit of the Probation of Offenders Act, 1958 should be extended to the accused-appellants.

35. In light of the above discussion, the conviction of the appellants-Maiku Lal and Buddhi Lal, under Section 304/34 IPC is hereby quashed and set aside and they are acquitted for the charge under section 304/34 IPC. However, the conviction under Sections 323/34, 504, and 506 IPC is maintained, but the sentence is modified looking to the age of Maiku Lal and Buddhi Lal who are now aged about 56 and 43 years respectively. Instead of undergoing further custodial imprisonment, the appellants are granted the benefit of Section 4 of the Probation of Offenders Act, 1958. Each appellant is directed to file two sureties of Rs. 20,000/- each, along with personal bonds, before the District Probation Officer concerned. They shall provide an undertaking to maintain peace

and good behavior for a period of two years from today. These bonds must be filed within two months from the date of this judgment.

36. It is further directed that the appellants- Maiku Lal and Buddhi Lal, shall deposit a sum of Rs. 5,000/- each before the trial court within two months from today. The trial court shall release the said amount as compensation in favor of the injured/complainant, Smt. Parmeshwari. In the event she is not alive, the said amount shall be released in favor of her legal heirs.

37. In case of a breach of any of the above conditions or failure to maintain peace during the probation period, the appellants shall be taken into custody to undergo the original sentence awarded by the trial court.

38. With the above modification, the instant criminal appeal is **partly allowed**.

39. As certified copy of the order be also sent to the court concerned for compliance.

40. Office is directed to communicate this order to the court concerned for necessary compliance.

41. Lower court record, if any, shall also be sent back to the district court concerned.

(Pramod Kumar Srivastava,J.)

March 30, 2026

Haseen U.