



2026:AHC-LKO:21011

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL APPEAL No. - 449 of 2011

Jagannath @ Jagat And Another

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s) : Gopesh Tripathi, Mohd. Naim, Puttu Lal Mishra

Counsel for Respondent(s) : Govt. Advocate

Court No. - 14

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Shri Puttu Lal Mishra, the learned counsel for the appellant and Shri Mohd. Asif Khan, the learned AGA-I for the State.

2. In furtherance of the order dated 09.01.2026, passed by this Court, bailable warrants were issued against the appellants. Office has reported that the appellant No.1- Jagannath has died about 10 years ago and the appellant No.2 Ram Lal has been produced before this Court by the police in compliance of the bailable warrants.

3. The appeal of the appellant No.1 stands abated. The Court proceeds to examine the appeal in so far as the appellant No.2 is concerned.

4. The instant appeal has been filed challenging the judgment and order dated 15.02.2011 passed by the Additional Session Judge/FTC, Court No.10, Pratapgarh in Session Trial No.286 of 1997 arising out of Case Crime No.163A of 2002 under Section 325 IPC registered at Police Station- Sangipur, District- Pratapgarh.

5. As per the prosecution case, the appellant No.2- Ramlal had assaulted the informant with sticks, kicks and fists at about 06:00 AM on 27.07.1995. Initially, NCR No. 83 of 1995 was lodged for the offences under Section 323 IPC but during investigation, charge-sheet was submitted for offences under Section 325 IPC. Charges were framed against three persons- Jagannath @ Jagat, Ramlal and Sadhu. Sadhu had died during trial and the trial against him was abated.

6. As per the statement of PW-1 Makku Devi, the dispute took place while

she was cutting *Meduii* plant and some shrubs. She stated that the accused persons had also suffered injuries in the incident. PW-2- Madar stated that the three accused were assaulting him with sticks and he picked up the stick of co-accused Sadhu and assaulted co-accused Jagat.

7. The learned AGA-I has informed that the trial arising out of Case Crime No.162 of 2002, the cross case, stood abated because of death of the accused person in that case.

8. The trial Court has convicted the appellant for offences under Section 323 read with Section 34 IPC and 325 read with Section 34 IPC and has sentenced the appellant to undergo simple imprisonment for one year under Section 324/34 IPC and simple imprisonment for two years for the offences under Section 325/34 IPC and a penalty of Rs.1,000/- was also imposed. The accused persons were ordered to undergo imprisonment for an additional period of one month for failure to pay the amount.

9. The learned counsel for the appellant has submitted that at the time of conviction, the appellant No.2 was aged 70 years and presently, he is aged 85 years. The appellant has been produced before this Court by Police Officers i.e. Sub-Inspector Aditya Pandey and Constable Sandeep Yadav. The appellant cannot walk on his own and he needs physical assistance of the police personnel for appearance before this Court.

10. The learned counsel for the appellant has submitted that the appellant has no criminal history and it was the first case in which he has been convicted and sentenced.

11. Keeping in view the facts and circumstances of the case, I am of the view that keeping the applicant in custody is not feasible in view of his advanced age. It will not serve any purpose either of reformation or of deterrence. Having been convicted for the first time and that too for offences under Section 324/34 IPC and 325/34 IPC, which do not involve any moral turpitude and having been sentenced to undergo simple imprisonment for a maximum period of two years, the applicant is entitled to be granted the benefit of Section 4 of Probation of Offenders Act, 1958.

12. Therefore, the appeal is disposed off by upholding the conviction and sentence of the appellant No.2 but it is provided that the trial Court itself has granted the benefit of Section 4 of Probation of Offenders Act, 1958 to the

appellants. As a period of 15 years had elapsed since his conviction and there is no allegation of any other misconduct or misdeed having been committed by the appellant since his conviction and sentence by the impugned order dated 15.02.2011, the maximum period of three years provided under Section 4 already stands elapsed long ago. Therefore, there is no need for the appellant No.2 to be kept on probation for any further period. Therefore, the appellant is set at liberty while upholding his conviction. The personal bond and sureties submitted by the appellant No.2 are discharged.

March 24, 2026

-Amit K-

(Subhash Vidyarthi,J.)