

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

Criminal Appeal No.S-229 of 2009

Date of hearing: 21.11.2022  
Date of decision: 21.11.2022

Appellants: Bhuro, Kanji and Kaunro,  
Through Mr. Rao Faisal Ali, advocate.

Appellants: Bheemon, Herchand, Harji and Khenro  
Through Mr. Asif Ali Talpur, advocate

The State: Through Mr. Nazar Muhammad Memon, APG.

JUDGMENT

**MUHAMMAD IQBAL KALHORO**, J:- Allegedly appellants on 13.03.2007 at 0700 hours in front of house of deceased Mansukh, in a cattle-pen, situated in Kolhi Paro, Village Maundhro, Taluka Nangarparkar being members of an unlawful assembly duly armed with hatchets and Lathis in prosecution of their common object, in order to cause breach of peace, insulted the complainant party to prevent them from erecting cattle-pen over there and attacked upon them. Appellant Bhuro inflicted a sharp-side hatchet blow on the back side of body of Mansukh while accused Kanji and Kaunro caused sharp-side hatchet blows on his head who died on the spot. Accused Bheemon, Harchand, Harji and Khenro caused hatchet and lathi injuries to complainant Chetan, PWs Nagji, Bhanji, Devji, Vasram and Mahadev.

2. Against such allegations, they were tried by learned Sessions Judge Tharparkar at Mithi in Sessions Case No.13 of 2007 bearing Crime No.03/2007 registered at PS Nangarparkar, and convicted in the terms whereby appellants Bhuro, Kanji and Kaunro were sentenced to suffer life imprisonment u/s 302(b) PPC and to pay compensation of Rs.200,000/- to the legal heirs of deceased u/s 544-A CrPC, in default, to suffer SI for 01 year more, whereas, appellants Bheemon, Harchand, Harji & Khenro have been convicted u/s 337-A(i)(ii), 337-F(i), (ii), 337-L(ii) & 504 PPC and sentenced to suffer RI for 05 years each and to pay compensation of Rs.20,000/- each to the injured PWs, in default, to suffer SI for 03 months more, however, with benefit of section 382-B CrPC, vide impugned judgment dated 30.09.2009, which they have challenged through instant appeal.

3. During pendency of this appeal, since appellants No.1 to 3 Bhuro, Kanji and Kaunro have completed sentence of life imprisonment and released from Jail, their counsel does not press appeal to their extent, which is accordingly dismissed as not pressed.

4. Learned counsel for appellants Bheemon, Harchand, Harji and Khenro, who are on bail, at the very outset submits that he would not press the appeal on merits if period of sentence the appellants have spent in jail is treated as full sentence to them.

5. Learned Additional PG has recorded no objection to it.

6. I have considered request of learned defense counsel and perused material available on record. The witnesses have fully supported the prosecution case. There is no material discrepancy in the case. It is obvious that prosecution has proved its case beyond a reasonable doubt. However, there is no record that appellants Bheemon, Herchand, Harji and Khenro have ever been previously convicted of any offence, as has been confirmed by the learned Additional Prosecutor General. Learned defence counsel states that appellants are remorseful of their past deeds and want to improve themselves and be good persons in the society. Jail Roll shows that the appellants have remained in jail for 02 year 01 months and 28 days and have earned remission of 08 months and 05 days. Total sentence they have suffered is 02 years, 10 months and 03 days out of 05 years rigorous imprisonment awarded to them.

7. The penalty u/s 337-A(i) PPC is daman and imprisonment of either description for two years, u/s 337-A(ii) PPC the penalty is qisas, or arsh, and imprisonment of either description for five years, u/s 337-F(i) PPC is daman and imprisonment of either description for one year, u/s 337-F(ii) PPC is daman and imprisonment of either description for three years, u/s 337-L(ii) PPC is daman and imprisonment of either description for 07 years, and u/s 504 PPC is imprisonment of either description for 02 year or fine or both. Hence, there is no legal impediment or otherwise in acceding to the request of learned defence counsel, not opposed by the learned Additional PG, for reduction of sentence. Appeal is therefore dismissed and the conviction of the appellants Bheemon, Harchand, Harji and Khenro is maintained, however, the sentences awarded to them are modified and reduced to the period already undergone by them. They are on bail, their bail bonds stand cancelled and surety discharged.

8. However, the appellants Bhuro, Kanji, Kaunro, Bheemon, Herchand, Harji and Khenro are required to pay compensation of Rs.200,000/- & Rs.20,000/- respectively, to legal heirs of the deceased as well as to injured PWs. In case of failure, the same shall be recovered from appellants in the manner provided for recovery of arrears of land revenue as contemplated by provision of Section 544-A, Cr.P.C.

9. The appeal is disposed of in the terms as stated above.

JUDGE

Ali Haider