



NON- REPORTABLE

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO(S). 563-564 OF 2020

**MAHENDRA RAI @ HARENDRA NARAIN
SINGH AND ORS. ETC.**

...APPELLANT (S)

VERSUS

THE STATE OF BIHAR

...RESPONDENT (S)

J U D G M E N T

SANJAY KAROL J.

1. These appeals arise out of the common final judgment and order dated 03.08.2017 passed by the High Court of Judicature at Patna in Government Appeal(DB)No.56/1989 and Criminal Appeal (DB) No.267/1989, whereby the High Court affirmed the conviction and sentence awarded by the learned Trial Court against the appellants in connection with a gruesome incident of mass violence which took place on 29.03.1983 in Village Jamalpur Kodai, P.S. Gaighat,

District Muzaffarpur, Bihar.

2. Allegedly, a long-standing village rivalry culminated in a grave incident in which a mob consisting of about 58 accused persons set on fire the residential house of Chandra Shekhar Choudhary of Village Jamalpur Kodai, P.S. Gaighat, District Muzaffarpur, resulting in the brutal murder of five members of his immediate family/village and causing severe injuries to several others. The incident was reported to the police, leading to registration of Gaighat P.S. Case No. 38 of 1983. Upon completion of investigation, charge-sheets were laid and the accused persons were sent up for trial.

3. Charges were framed against the accused persons under Sections 147, 148, 436, 302/149, 324/34, 323 and 379 of the Indian Penal Code, 1860. Accused Jagannath Ravidas, the then Circle Officer, was separately charged under Sections 302/109, 436/109, 379/109, 324/109 and 323/109 IPC on the allegation that he had actively abetted the commission of the offences.

4. The prosecution case, as unfolded during trial, discloses that the genesis of the occurrence lay in an earlier dispute relating to a pumping set and refusal by the prosecution side to withdraw a criminal case concerning the alleged loot of a *khesari* crop. On the date of occurrence, which coincided with the festival of *Holi*, a large mob armed with deadly weapons including *lathi*, *bhala*, *garasa* and *farsa* surrounded the house of Chandra Shekhar Choudhary.

5. It is alleged that at the relevant time Mahanth Indradeo Jyoti, one of the deceased, was attempting to defend the inmates of the house with his licensed gun and revolver. The prosecution further alleges that Jagannath Ravidas, the then Circle Officer, arrived at the place of occurrence, forcibly seized the licensed firearm and revolver from the deceased, displayed the same before the mob and thereby emboldened the assailants to proceed with the attack.

6. Immediately thereafter, the mob allegedly set the house ablaze. The family members who attempted to flee from the burning house towards the southern field were chased and mercilessly assaulted by the members of the unlawful assembly.

7. The investigation disclosed that Mahanth Indradeo Jyoti, Braj Bhushan Choudhary, Dr. Indranand Mishra, Lalan @ Ravi Bhushan Choudhary, and Anil Kumar Jha, died as a result of ante-mortem injuries sustained during the occurrence. The injured persons included Chandra Shekhar Choudhary, Mani Kumari, Uma Devi, Maheshwari Devi, Satyendra Jha, Saraswati Devi, Urmila Devi, Murti Devi, Ram Chandra Mahto, Abinash Choudhary, Dauli (child), Arvind Kumar, Usha Mishra, Rita Devi, Punam Kumari, Doyal Mona, Ajay Kumar Choudhary, Munish Kumar and others, many of whom had sustained grievous injuries.

8. In support of its case, the prosecution examined 46 witnesses including numerous injured eyewitnesses. The defence examined 13 witnesses.

9. The medical evidence stood fully proved through PW-1, Dr. Binod Kumar Mahto, who conducted the post-mortem examinations on four deceased persons namely, *Mahanth Indradeo Jyoti, Braj Bhushan Choudhary, Dr. Indranand Mishra and Lalan @ Ravi Bhushan Choudhary*; PW-46, Dr. Ram Krishna Prasad Singh, who conducted the post-mortem examination on the dead body of *Anil Kumar Jha*; PW-43, Dr. Upendra Nath, who examined the injuries of *Chandra Shekhar Choudhary, Mani Kumari, Maheshwari Devi, Uma Devi, Satyendra Jha, Saraswati Devi, Anil Kumar Jha (while alive), Urmila Devi, Murti Devi, Ram Chandra Mahto, Abinash Choudhary, Dauli, Arvind Kumar, Usha Mishra, Rita Devi, Punam Kumari and Doyal Mona* at the Primary Health Centre, Gaighat; PW-44, Dr. Snehansu Gupta, who examined the injuries of *Ajay Kumar Choudhary and Munish Kumar* at Sadar Hospital, Muzaffarpur; and PW-45, Dr. Birendra Prasad, who examined the injuries of *Dauli, Punam Kumari, Rita Choudhary, Usha Mishra, Ram Chandra, Murti Devi, Urmila Devi, Saraswati Devi, Satendra Kumar, Uma Devi, Mona and Chandra Shekhar Choudhary* at Sadar Hospital, Muzaffarpur. The medical evidence fully establishes that the deceased persons died due to homicidal ante-mortem injuries caused by sharp-cutting and hard blunt weapons and that numerous injured witnesses had sustained serious injuries consistent with the ocular version.

10. The statements of several injured witnesses were also recorded under Section 164 Cr.P.C. in the presence of Special Judicial Magistrate Shri Amrendra Kumar Singh (PW-42), which statements were duly proved during trial.

11. Upon appreciation of the evidence, the learned Trial Judge found that there was no material sufficient, warranting conviction against certain accused persons and, as such, acquitted 18 accused persons under Section 232 Cr.P.C. by order dated 20.01.1989. Their names are: *Rajdeo Singh, Amar Yadav, Subodh Lal, Hira Yadav, Ram Sevak Yadav, Ram Ratan Raut, Chalitra Raut, Mahendra Rai, Dayali Yadav, Surendra Singh Yadav, Sushil Yadav, Sheo Chandra Yadav, Dhaneshwar Rai, Maheshwar Rai, Uchit Rai, Khakhan Rai, Sone Lal Rai and Uchit Rai.*

We find that the testimonies of the 13 defence witnesses, whose names appear at page 111 of the High Court judgment, namely DW-1 *Raj Kishore Rai*, DW-2 *Habib Ahmad*, DW-3 *Raj Kishore Rai*, DW-4 *Vidya Sagar Choudhary*, DW-5 *Jogendra Thakur*, DW-6 *Ashok Kumar Mahaseth*, DW-7 *Khobhari Rai*, DW-8 *Ramesh Kumar*, DW-9 *Jeevnath Rai*, DW-10 *Jeevan Rai*, DW-11 *Dr. Manoranjan Kumar Srivastava*, DW-12 *Vishwanath Prasad* and DW-13 *Rajendra Prasad*, do not advance the case of the defence. On the contrary, they materially corroborate the prosecution version regarding the occurrence, the presence of the accused at the place of occurrence and wholly belie the plea of alibi raised by the accused persons.

12. The Trial Court convicted the remaining accused persons under Sections 302/149, 436/149, 147, 148, 379, 323 and 324 IPC and sentenced them to undergo rigorous imprisonment for life for the principal offence under Section 302/149 IPC along with other sentences, all directed to run concurrently. Accused Jagannath Ravidas was convicted under Sections 302/109, 436/109, 379/109, 324/109 and 323/109 IPC, the Court finding that he had abetted the crime by forcibly taking the licensed gun and revolver from deceased Mahanth Indradeo Jyoti and thereby emboldening the mob.

13. Aggrieved thereby, the convicted accused preferred appeals before the High Court. During pendency of the appeals, several appellants expired and the appeals stood abated against them.

14. The High Court, after re-appreciating the entire evidence on record, accepted the plea of juvenility raised by Appellant Nos. 21, 34 and 38 and referred their cases to the Juvenile Justice Board for consequential proceedings. The High Court also took note of the order passed by this Court dated 29.04.2022 extending the benefit of juvenility to accused Jugat Lal Rai.

15. However, insofar as the remaining appellants are concerned, the High Court affirmed the findings recorded by the Trial Court, and upheld the conviction and sentence imposed upon them.

16. In so far as juvenility is concerned, it is also a matter of record that in Criminal Appeal (DB) No. 267 of 1989, Appellant Nos. 21, 34 and 38 were found,

to be juveniles on the date of occurrence upon due enquiry by the Juvenile Justice Board, Muzaffarpur. By orders dated 26.08.2013 and 16.05.2014, their plea of juvenility was accepted, their conviction was maintained, but the question of sentence was directed to be dealt with in terms of the Juvenile Justice (Care and Protection of Children) Act 2015 by the Juvenile Justice Board, particularly with regard to imposition of appropriate fine and consequential orders. It is further on record that, *vide* order dated 29.04.2022, this Court has also extended the benefit of juvenility to accused Jugat Lal Rai.

17. Learned counsel appearing on behalf of the appellants contended before us that the prosecution case suffers from exaggeration and over-implication; that many of the appellants were merely present at the place of occurrence and did not share any common object; and that the conviction with the aid of Section 149 IPC is unsustainable.

18. It was further submitted that the incident allegedly arose out of a sudden altercation regarding a pumping set and, therefore, the prosecution has failed to establish any premeditated common object to commit murder.

19. *Per contra*, learned counsel appearing for the State supported the concurrent findings recorded by the Courts below and submitted that the evidence of injured eyewitnesses fully establishes the participation of the accused persons and their common object.

20. Having carefully considered the submissions advanced and upon perusal of the entire material on record, we find no merit in the appeals.

21. The High Court's assessment of the evidence is detailed and reasoned. The eyewitnesses, including PW-2 *Ved Narayan Choudhary*, PW-4 *Usha Mishra*, PW-5 *Saraswati Devi*, PW-34 *Murti Devi*, PW-35 *Uma Devi*, PW-37 *Rita Devi*, PW-38 *Maheshwari Devi* and PW-40 *Chandra Shekhar Choudhary*, have consistently narrated the manner in which the assailants, without any justified cause, set the house of Chandra Shekhar Choudhary, on fire and by forming an unlawful assembly, brutally killed five members, while causing serious injuries to others who were helpless and defenceless. Their version stands corroborated by independent witnesses PW-6 *Mangat Singh*, PW-8 *Ram Bahadur Paswan* and PW-41 *Uday*, who had no animus and whose testimonies are unimpeachable.

22. The High Court has meticulously summarized the role of each accused person and identified those who ignited the straw, those who set the house on fire, those who chased the fleeing victims and those who inflicted fatal blows upon the deceased persons.

Name of surviving accused persons. (No. has been assigned as per their position in the cause title of Criminal Appeal (DB) No. 267 of 1989)	Witnesses who have specifically named the accused setting straw/house on fire	Witnesses who have identified the accused persons present in the mob	Witnesses who have identified the accused persons who had engaged in assault, beating & lynching.
2. Mahendra Rai @ Harendra Narain Singh, S/o. Bhagat Rai	PW20	PW2, PW5, PW6, PW8, PW18, PW19	PW3, PW10, PW13, PW15, PW16, PW17, PW22, PW24, PW25, PW26, PW27, PW23, PW36
5. Krishnandan Rai S/o. Hira Lal Rai	PW2, PW3, PW14, PW20, PW26, PW38	PW2, PW6, PW8, PW18, PW19	PW3, PW10, PW13, PW14, PW22, PW25, PW26, PW23
6. Ram Udar Rai, S/o. Prem Rai		PW2, PW6, PW18	PW3
8. Mita Ram Rai, S/o. Sukan Rai	PW2, PW3, PW20	PW2, PW6, PW8, PW18, PW19	PW3, PW18, PW24, PW25, PW23
9. Ganesh Rai, S/o. Charittar Rai		PW2, PW6, PW18	PW3, PW22

Name of surviving accused persons. (No. has been assigned as per their position in the cause title of Criminal Appeal (DB) No. 267 of 1989)	Witnesses who have specifically named the accused setting straw/house on fire	Witnesses who have identified the accused persons present in the mob	Witnesses who have identified the accused persons who had engaged in assault, beating & lynching.
10. Ram Lal Rai, S/o. Bhogi Rai	PW20	PW2, PW8, PW18, PW19	PW3, PW13, PW22, PW25, PW26
11. Ram Ekbal Rai S/o. Jogi Rai		PW2, PW5, PW8, PW19, PW38	PW24, PW13, PW18, PW22, PW25, PW26, PW27
13. Ram Binay Rai, S/o. Prem Rai		PW2, PW6, PW18, PW19, PW40	PW16, PW27
14. Panchan Rai @ Ram Prabhanjan Rai, S/o. Prem Rai	PW20	PW2, PW18, PW19	PW3, PW13, PW23, PW22
15. Ramashish Rai, S/o. Dhanukhi Rai	PW6, PW8, PW20, PW36	PW2, PW5, PW6	PW22
20. Kapildeo Rai, S/o Prem Rai	PW20	PW2, PW6, PW40	PW22, PW25, PW26

21. Ramadhar Rai, S/o. Subudh Lal Rai (Juvenile)		PW2, PW38	PW17, PW22
24. Siya Saran Rai S/o. Khakhan Rai	PW2, PW3, PW20	PW2, PW6, PW18, PW38, PW40	PW3, PW17, PW22, PW25, PW23
26. Kapildeo Rai, S/o. Sukan Rai		PW2, PW6	
31. Sukh Nandan Rai, S/o. Chalitai Rai		PW2, PW40	PW3, PW26
32. Bujhawan Rai S/o. Hira Lal Rai	PW20	PW2, PW5, PW8	
33. Ram Singar Rai S/o. Hira Lal Rai		PW2, PW5, PW19	
34. Vidya Nand Rai S/o. Bhujawan Rai. (Juvenile)	PW20	PW38	PW22
36. Phekan Rai, S/o Asharfi Rai	PW20	PW19, PW38, PW40	PW22
37. Khakhanu Rai, S/o. Methur Rai		PW38, PW40	PW24, PW26, PW36
38. Rama Nand Rai, S/o. Mahendra Rai (Juvenile)	PW20	PW38, PW40	PW3, PW22, PW26, PW27, PW36
39. Subudh Lal Rai, S/o. Bishuni Rai	PW20	PW2, PW6, PW19, PW38, PW40	PW3, PW17, PW22
40. Ramhit Rai, S/o. Khakhan Rai		PW38, PW40	PW23, PW25
41. Nand Kishore Rai, S/o. Prem Rai		PW2	PW27
42. Garbhu Rai, S/o. Charittar Rai	PW20	PW2, PW38, PW40	PW22, PW23
43. Shiva Chandra Rai S/o. Sukhdeo Rai	PW20	PW2, PW38, PW40	PW22, PW36
45. Jugut Lal Rai @ Nirmal Rai, son of Lakshmi Rai		PW2, PW40	PW22
46. Kanhai Rai, S/o Janak Rai		PW40	PW22, PW26, PW27
47. Sita Ram Rai, S/o. Fakira Rai			PW18
48. Nirsu Rai @ Nuja Rai, S/o. Rudal Rai			PW17

Witness	Name of the Witnesses	Specific role assigned by the Witnesses to the accused persons regarding the mode of overt-act/assault on the victims/injured persons.
PW5	Saraswati Devi	Methur Rai A3D and Prit Lal Rai A12D had inflicted farsa blow on Mahanth Indradeo Choudhary. Saukhi Rai A35D had inflicted lathi blow on PW5 resulting in breaking of her hand.
PW6	Langat Singh	Mita Ram A8, Siya Ram A7D and Siya Saran A24 had inflicted lathi blow on Chandra Shekhar Choudhary PW40. These accused persons along with others had also beaten other family members.

Witness	Name of the Witnesses	Specific role assigned by the Witnesses to the accused persons regarding the mode of overt-act/assault on the victims/injured persons.
PW16	Awadhesh Singh	Mahendra A2, Batahu Rai A17D, Ram Binay A13 and others had beaten the family members of Chandra Shekhar Choudhary PW40.
PW22	Krishna Dev Choudhary	The child of Braj Bhushan Choudhary was snatched by the mob & thrown in fire, however, the child was saved.
PW25	Devendra Jha	The mob started throwing Rora, Pathar and Dhela. Chandra Shekhar Choudhary PW40 was beaten by Siya Ram Rai A7D, Mita Ram Rai A8, Lakshmi Rai A23D and Ishwar Rai A21D.
PW33	Mithila Devi	Prit Lal Rai A12D, Methur Rai A3D, Siya Ram Rai A7D and Siya Saran Rai A24 had set the straw of PW33 on fire. PW33's mother Murti Devi and brother-in-law (Dewar) were beaten by Prit Lal Rai A12D, Methur Rai A3D, Siya Ram Rai A7D and Siya Saran Rai A24. The mob had engaged in setting the house of Chandra Shekhar Choudhary PW40 on fire and had also engaged in assault.
PW34	Murti Devi	The straw of PW34 was put on fire by Prit Lal Rai A12D. Methur Rai A3D and Siya Ram Rai A7D were seen near the straw, whereafter Prit Lal Rai A12D, Methur Rai A3D, Siya Ram Rai A7D, Siya Saran Rai A24, Mita Ram Rai A8, Subudh Lal Rai A39, Ramadhar Rai A21, Garbhu Rai A42, Hulash Rai and others entered inside the courtyard. Then Mahendra Rai A2 exhorted to the people, whereafter Prit Lal Rai A12D, Methur Rai A3D, Siya Ram Rai A7D, Siya Saran Rai A24, Mita Ram Rai A8 started beating brother of son-in-law of PW34. The accused persons had also beaten PW34. PW34 was also beaten by Prit Lal Rai A12D, Siya Ram Rai A7D, Siya Saran Rai A24, Mita Ram Rai A8, Subudh Rai, Ramadhar Rai A21, Garbhu Rai A42.
PW35	Uma Devi	PW35's family members were beaten by mob by lathi, bhala, garasa & farsa resulting in death of her husband Braj Bhushan Choudhary, Ravi Bhushan Choudhary, Mahanth Indradeo Jyoti & Dr. Indranand Mishra & subsequently Anil Kumar Jha also died. PW35 was beaten by Kudal by Krishnandan Rai A5 & he snatched her son from her hand & threw him in the fire.
PW36	Nagendra Jha	Mahanth Indradeo Jyoti was beaten by accused Mahendra Rai A2 and Siya Ram Rai A7D by farsa as well as by Krishnandan Rai A5 and Prit Lal Rai A12D by farsa resulting in his death. Ramashish Rai A15 and Jagrit Rai A4D had beaten Dr. Indranand Mishra by bhala. Surendra Rai and Methur Rai A3D had beaten Dr. Indranand Mishra by farsa and Mita Ram Rai A8 had beaten him by bhala resulting in his death there. Braj Bhushan Choudhary and Ravi Bhushan Choudhary were beaten by bhala by Jagrit Rai A4D, Ramashish Rai A15 and Ram Ekbal Rai A11, by farsa by Methur Rai A3D and Krishnandan Rai A5, by bhala by Siya Ram Rai A7D and Ganesh Rai A9 and by lathi by Shiv Shankar Rai A1D. PW36 was beaten by farsa by Ram Lal Rai A10, by garasa by Ram Udar Rai A6 and by Kudal by Panchan Rai A14.
PW37	Rita Choudhary	The mob was throwing Rora, Pathar and had engaged in assault by lathi, bhala, farsa and garasa. PW37 stated about death of five persons at the place of occurrence and the family members being injured by the accused persons. PW37 was also injured and her knee and talwa got burnt by fire.
PW38	Maheshwari Devi	Son-in-law of PW38 i.e Mahanth Indradeo Jyoti was beaten by bhala by Mahendra Rai A2 and Siya Ram Rai A7D, by farsa by Krishnandan Rai A5 and Prit Lal Rai A12D. Dr. Indranand Mishra was beaten by bhala by Jagrit Rai A4D and Ramashish Rai A15, by farsa by Methur Rai A3D and Surendra Rai and by garasa by Mita Ram Rai A8. PW38's son Braj Bhushan Choudhary and Ravi Bhushan Choudhary were beaten by bhala, by Ramashish Rai A15, Siya Ram Rai A7D and Jagrit Rai A4D, by farsa by Krishnandan Rai A5 and Prit Lal Rai A12D and by lathi by Fekan Rai A36, Shiv Shankar Rai A1D and RamBinay Rai A13. Methur Rai A3D had also beaten them by farsa. Ram Binay Rai A13 had also beaten them. Anil Kumar Jha was beaten by farsa by Ram Lal Rai A10, by garasa by Ram Udar Rai A6 and by Kudal by Panchan Rai A14 apart from being beaten by lathi by some persons. PW38 was beaten by Methur Rai A3D by lathi portion of the farsa and he had also snatched gold chain from her neck apart from snatching attaché containing jewelry from her Natini namely Usha Mishra PW4.
PW40	Chandra Shekhar Choudhary	Indradeo Jyoti was beaten by bhala by Mahendra Rai A2 and Siya Ram Rai A7D, by farsa by Krishnandan Rai A5 and Prit Lal Rai A12D. Dr. Indranand Mishra was beaten by farsa by Methur Rai A3D and Surendra Rai, by garasa by Mita Ram Rai A8 by bhala by Jagrit Rai A4D and Ramashish Rai A15. Braj Bhushan and Ravi Bhushan was beaten by farsa by Krishnandan Rai A5, Siya Ram Rai A7D and Methur Rai A3D, by bhala by Ram Ekbal Rai A11 and Ganesh Rai A9 and by lathi by Shiv Shankar Rai A1D. Anil Kumar Jha was beaten by farsa by Ram Lal Rai A10, by garasa by Ram Udar Rai A6, by Kudal by Panchan Rai A14 and by gupti by Ramadhar Rai A21. PW40 has stated about death of 4 persons at the place of occurrence and one person at the hospital. PW40 stated that apart from him, his wife Maheshwari Devi PW38, daughter Sarswati Devi PW5, Putohu Uma Devi PW35 and Rita Devi PW37, Natini Usha Devi PW4 received injuries. PW40 has stated that other family members were also beaten. PW40 is stated to have been beaten by Awadhesh Rai, Fekan Rai A36 and Parichhan Rai A16D, resulting in breaking of his hands and head. PW40 has stated that earlier also accused persons had assaulted him for not compromising cases. Prit Lal Rai A12D tried to inflict knife blow on son in law of PW40 but it hit Umesh Rai whereafter, he went away with the Yadavs on foot. PW40 had seen the accused persons assaulting all the victims.

110. The witnesses, who had identified surviving accused carrying weapons, can be examined in the following manner:-

Name of the accused persons (No. has been assigned as per their position in the cause title of Criminal Appeal (DB) No. 267 of 1989)	Bhala	Pharsa	Lathi	Kudal	Garasa
2. Mahendra Rai @ Harendra Narain Singh, S/o. Bhagat Rai	PW6, PW8, PW13, PW16, PW17, PW22, PW26,				

Name of the accused persons (No. has been assigned as per their position in the cause title of Criminal Appeal (DB) No. 267 of 1989)	Bhala	Pharsa	Lathi	Kudal	Garasa
5. Krishnandan Rai S/o.Hira Lal Rai		PW8, PW14, PW26,			
8. Mita Ram Rai, S/o. Sukan Rai			PW6		
9. Ganesh Rai, S/o Charittar Rai	PW6, PW22,				
10. Ram Lal Rai, S/o. Bhogi Rai.		PW26,			PW22,
11. Ram Ekbal Rai S/o. Jogi Rai.	PW22, PW26,				PW13,
13. Ram Binay Rai, S/o Prem Rai.		PW16,			
14.Panchan Rai @ Ram Prabhanjan Rai, S/o Prem Rai.				PW22,	
24. Siya Saran Rai S/o Khakhan Rai			PW6		
40.Ramhit Rai, S/oKhakhan Rai.	PW14,				
46.Kanhai Rai, S/o Janak Rai.	PW15,				

PW23 has stated that rest of the accused were carrying Lathi, Bhala & Garasa.

PW26 has stated that rest of the accused were carrying Lathi & Kudal.

23. The findings recorded by the High Court clearly establish that the accused persons constituted an unlawful assembly, were armed with deadly weapons and acted in furtherance of their common object of setting the house ablaze and causing death of members of the family of Chandra Shekhar Choudhary.

24. Once the common object of the unlawful assembly stands established, every member thereof becomes vicariously liable for acts committed in prosecution of such common object. The liability contemplated under Section 149 IPC squarely stands attracted in the facts of the present case. Learned Counsel for the appellants has placed reliance on *(i) Santosh v. The State of M.P*¹. *(ii) State of Karnataka v. Chikkahottappa @ Varade Gowda and Ors.*² *(iii) State of Assam v. Barga Dewani and Ors*³ and *(iv) Anup Lal Yadav v. State of Bihar*⁴.

¹ AIR 1975 SC 654

² AIR 2008 SC 2692

³ 1970 (3) SCC 236

⁴ (2014) 10 SCC 275

25. The contention that some of the appellants were mere spectators deserves outright rejection. The evidence-on-record clearly establishes active participation by the accused persons in different stages of the occurrence, including surrounding the house, setting it on fire, chasing the victims and assaulting them with lethal weapons.

26. Equally untenable is the submission that the occurrence arose merely out of an altercation concerning a pump set between Brij Bhushan and Chandra Shekhar Chaudhry. Even assuming that there existed such prior hostility, the same can never justify the formation of an unlawful assembly of such magnitude, armed with deadly weapons leading to the brutal killing of five persons and causing grievous injuries to numerous others.

27. Insofar as accused Jagannath Ravidas, is concerned, both the Trial Court and the High Court have concurrently found that he had actively facilitated the commission of the offence by disarming the victims at a crucial stage and thereby emboldening the mob. We find no reason to take a different view.

28. We are satisfied that the prosecution has proved beyond reasonable doubt the ingredients of the offences charged against the appellants. The concurrent findings recorded by the Trial Court and affirmed by the High Court are based upon proper appreciation of evidence and do not suffer from any perversity warranting interference under Article 136 of the Constitution of India.

29. The brutality of the incident, in which five persons belonging to the same family lost their lives and several others including women and children sustained serious injuries, shocks the judicial conscience. The Courts below have rightly observed that the case leaves no room for misplaced sympathy or leniency.

30. In view of the foregoing discussion, we find no ground to interfere with the impugned judgment and order passed by the High Court.

31. Consequently, the appeals stand dismissed.

32. The surviving accused persons, except those who have been granted the benefit of juvenility by this Court or Courts below, are directed to surrender forthwith before the Trial Court concerned and serve the remaining part of their sentence. Their bail bonds, if any, stand cancelled.

33. Pending application(s), if any, shall stand disposed of.

.....J.
(SANJAY KAROL)

.....J.
(NONGMEIKAPAM KOTISWAR SINGH)

New Delhi
May 26, 2026