

SUPREME COURT OF INDIA

Tukaram Dnyanu Gurav

Vs.

State of Maharashtra

Crl.A.No.804 of 1981

(A. D. Koshal and R. B. Misra, JJ.)

14.10.1981

ORDER

The courts below have found that all the four appellants along with two others were members of an unlawful assembly, each one being armed with a deadly weapon. Accused No. 1 alone is shown to have fired shots which resulted in injuries covered by S. 307 of the Indian Penal Code. No overt act apart from membership of the unlawful assembly has been brought home to any of the appellants except that they were also armed with deadly weapons at the time of the occurrence. Their conviction for an offence under S. 307 read with S. 149 of the Indian Penal Code is thus well-founded but the fact that it is not proved that any of them actually used their respective weapons during the assault is certainly a mitigating circumstance. We are of the opinion that the sentence awarded to them by the courts below is excessive. We reduce it in the case of each of them to rigorous imprisonment for two years. The appeal is accepted to that extent only, it being otherwise dismissed.

Order accordingly.