

Ali Ahmad

Vs

State of U.P.

(G. T. Nanavati, V. N. Khare JJ)

26.02.1998

JUDGMENT

NANAVATI J.

1. We have heard learned counsel and also gone through the evidence and the judgment of the High Court. We find that the findings recorded by the High Court are correct. The evidence of four witnesses, namely, Nathu, Dilawar, Jameelan and Nanhey clearly establishes that Mahmood died as a result of the shots fired by Ali Ahmad and Mahmood Sher and that Jameelan and Nanhey received injuries as a result of the shots fired by those two accused. The manner in which the appellants had assaulted Nathu initially and chased him right up to the house of Mahmood, their entering the house of Mahmood and then firing shots at him and his wife and child, when Mahmood had protested, clearly indicate that both Ali Ahmad and Mahmood had protested, clearly indicate that both Ali Ahmad and Mahmood Sher had acted in concert and it was in furtherance of their common intention that they had caused death of Mahmood and bodily injuries to Jameelan and Nanhey. The High Court was, therefore, right in convicting Ali Ahmad and Mahmood Sher for the offences punishable under Section 302 read with 34 IPC and Section 307 read with 34 IPC. The other three accused were rightly convicted under Section 324 read with Section 149 IPC only.

2. This appeal is, therefore, dismissed.

3. The appellant Nos. 2-5 are on bail. Their bail bonds are cancelled. They are directed to serve out the remaining part of their sentence.