

**HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU**

Cr. Acquittal Appeal no. 31-A/2003

Date of Decision: 01.01.2010

State	Vs.	Janak Raj
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Coram:

HON'BLE MR. JUSTICE SUNIL HALI, JUDGE.

Appearing Counsel:

For the Appellant(s):	Mr. Gagan Basotra, AAG .
For the Respondent(s) :	Mr. Anil Gupta, Advocate.

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| i) | Whether to be reported in
Press, Journal/Media | : | Yes/No |
| ii/ | Whether to be reported in
Digest/Journal | : | Yes/No |
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On a verbal complaint lodged by the complainant that his brother Ram Paul was grievously injured by the accused, FIR no. 91/1995 was registered under Sections 341/323/324/326 RPC. The allegations leveled in the FIR are that on 25.12.1995 when the injured was pruning his Shisham trees in his fields and some of the branches fell in the field of the accused, which resulted in exchange of hot words between the two as a result of which the accused hit the injured on his left elbow with a ~~ठारठ~~ After conclusion of the investigation, challan was produced before the trial Court, and after conclusion of the trial,

trial Court acquitted the accused of the charges. The present appeal has been filed against the said order of acquittal.

The prosecution version is stated to have been proved by four witnesses, namely, Ram Krishan, Dharam Singh, Surjeet Singh and the injured Ram Paul. These witnesses have stated that the accused had hit the injured with a Darat. However, their versions differ regarding the place of occurrence. The injured Ram Paul in his statement has stated that after pruning the branches of his trees, when he was returning to home, on way the accused confronted him and attacked him with a Darat which h led to injuries. On his raising the alarm the prosecution witnesses namely, Sujeet Singh and Ram Krishan came on spot and rescued him from the clutches of the accused. He admits that at the time of the occurrence, PW Dharam Singh and PW Ram Krishan were working in their fields which is about 100 to 150 yards away from the place of occurrence. He further admits that he was already injured by the accused when the prosecution witnesses Dharam Singh and Ram Krishan came on spot.

The version of PW Surjeet Singh is that while returning home the injured was attacked with a darat by the accused and after the injured raised an alarm, he rushed to the spot but the accused had already fled away. PW Ram Krishan states that

Janak Raj, accused and injured Ram Paul were abusing each other and accused attacked injured Ram Paul with a Darat. He has further stated that the altercation took place when the injured was cutting the branches of the trees which was objected to by the accused as the same were falling into his field. He also admits that he had reached the place of occurrence after the occurrence had taken place.

Accused has also produced his defence witness, who has stated that there was enmity between the parties. The accused had inherited the property of his father-in-law which was not liked by the injured and the complainant as they were the direct beneficiaries of the said property. The accused was harassed by the complainant as a result of which he had to sell his house and to shift to other place. This fact has also been admitted by the prosecution witnesses that injured and the complainant are related to the accused.

I have heard the learned counsel for the parties and gone through the record.

All the prosecution witnesses examined are interested witnesses and harboring grudge against the accused. The weapon of offence has not been recovered at the instance of the accused but at the instance of the complainant. The place from where the weapon of offence has been recovered is



accessible to all. It is also important to note that the injured was cutting the branches of the tree with a Dah, which too has not been seized.

I find no reason to interfere with the well reasoned judgment of the trial Court. The appeal is, accordingly, dismissed.

(SUNIL HALI)
Judge

JAMMU:
01.01.2010
Anil Raina, Secy.