

**Edal Singh Vs. State of U.P. and Others**

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**Court :** Allahabad

**Decided On :** Apr-10-2014

**Judge :** Amar Saran & Mohd. Tahir

**Appeal No. :** Criminal Misc. Application No. 172 of 2014

**Appellant :** Edal Singh

**Respondent :** State of U.P. and Others

**Judgement :**

We have heard learned counsel for the appellant and the learned A.G.A. for the State and have perused the judgment of the Trial Court, by which Special Judge, S.C./S.T. Act, Hathras, has acquitted the accused respondents under section 302 I.P.C., section 3 (2) (5) S.C./S.T. Act and Sections 504 and 506 I.P.C. etc., in S.T. Nos. 188 of 2010 and 189 of 2010 by the judgment dated 1.3.2014.

The prosecution allegation in the F.I.R. lodged by Udal Singh, P.W. 1, father of the deceased Babboo was that some dancers had come in connection with the marriage of the daughter of Babboo Nat with the son of Saudan Nat on 18.3.22010. At about 9 p.m., the informant Udal, his son Babloo (the deceased) and his uncle (Edal Singh), (the appellant), Brijendra Singh, Om Prakash and others were seeing the "rangsala. "The accused respondents Yogesh, Shiv Kumar and Triloki Pradhan their father arrived at the spot. At that time, the three accused persons fired with country made pistols which struck the neck of the deceased

Babloo, who died at the spot. On 6.4.2010 at 8.40 p.m., accused respondent Yogesh was arrested near the culvert in village Garavgarhi Road, near the Collectorate and a 315 bore tamancha and two live cartridges of 315 bore were recovered from him.

The prosecution has examined six witnesses Udal Singh, P.W. 1, informant, Om Prakash, P.W. 2, Edal Singh, (the appellant), P.W. 3, Ravendra Pratap Singh, P.W. 4, Lalaram, P.W. 5, and Patiram, P.W. 6. as eyewitnesses. All the aforesaid witnesses other than P.W. 3 Edal Singh have not supported the prosecution case and have been declared hostile. The case of the witnesses other than Edal Singh in their evidence in Court was that at the marriage the "rangsala" was taking place and the accused respondents had resorted to firing, which accidentally struck the deceased on his neck. However, the case of Edal Singh, P.W. 3, the appellant was that at 4 p.m. on the same day he was trying to take water from the tube well of Om Prakash, which was not permitted by the accused respondents. Then he ran away and the deceased is said to have questioned them as to why they were abusing his grandfather. As a consequence of that dispute at 9 p.m. at the marriage, the accused-respondents had fired on the deceased and the fire by Yogesh had struck the deceased on his neck. The Trial Judge observed that even Om Prakash, P.W. 2 at whose tube well, the dispute had taken place, does not support this version and only states that the accident has taken place, as a result of the celebratory firing at the time of marriage. We also find that the Trial Judge has held that there was no good reason for the accused-respondents to have committed this crime. Rather as P.W. 3 Edal Singh has himself suggested that the accused Triloki, father of the accused-respondents had objected to the functioning of his fair price shop, regarding which an inquiry had been conducted. This provides a greater motive for the false implication of the accused respondents, who are sons of Triloki Pradhan.

We also have some doubts where the appellant, who is not the grandfather, but grand uncle of the deceased Babloo has any locus standi to file this appeal, as the right of filing the appeal, which has been conferred under section 372 Cr. P. C. has been given to a victim who has been defined under section 2(wa) to mean a person who has suffered any loss or injury caused by reason of the act or

omission for which the accused persons have been charged and the expression "victim" includes his or her guardian or legal heir. It cannot be said that the grand uncle i.e. the brother of the grand father would be any person, who could be considered to have suffered any loss or injury. Also the grand uncle not being a lineal ascendant or descendant would not be his legitimate legal heir and we doubt that such an enlarged meaning as has been suggested by the learned counsel for the appellant has been given to any person to file an appeal. We, therefore, do not find any perversity or illegality in the judgment of the Trial Court calling for interference in the order of acquittal recorded by the Trial Court. The application for leave to appeal is rejected and the appeal is, consequently, dismissed.

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