

Ranjeet Vs. State of U.P.

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Court : Allahabad

Decided On : Nov-25-2014

Judge : Amar Saran & Vipin Sinha

Appeal No. : Criminal Appeal No. 59 of 1983

Appellant : Ranjeet

Respondent : State of U.P.

Advocate for Pet/Ap. : Sri. Sumit Goyal

Judgement :

Amar Saran and Vipin Sinha, J.

1. Heard Sri Sumit Goyal, learned counsel for the appellant and, learned Govt. Advocate for the State.

We have perused the record and trial court judgement.

This appeal arises out of a judgement of the Illrd Additional District and Sessions Judge, Saharanpur dated 13.12.1982 in Sessions Trial No. 318 of 1982, P.S. Kotwali Dehat, District Saharanpur convicting and sentencing the appellant Ranjeet to life imprisonment under Section 302/34 I.P.C. and to undergo R.I. for 5 years under Section 394 I.P.C.

2. The prosecution version as disclosed in the F.I.R. was that when witnesses Shakil Ahmad, PW-1, Suleman, PW-2 and the deceased Abdul Rehman (uncle of informant) were returning from Saharanpur to their villages on their bicycles after selling milk at about 12.15 a.m. in the night on 20/21.04.1982 near the big canal, the three accused persons attacked them who were hiding under a peepal tree. One accused person came running from the northern side with a pistol in his hand, who fired on the witnesses and the deceased. The fire struck the deceased Abdul Rehman on his chest who fell down after proceeding for a short distance. The miscreants started threatening the witnesses and the deceased and took away their bicycles and cash i.e. L900 from the informant Shakil Ahmad and L50 from Suleman.

3. Only the name of appellant Ranjeet resident of Village Manshapura, P.S. Kotwali Dehat, District Saharanpur has been mentioned in the F.I.R. which was lodged on 21.04.1982 at 03.15 a.m. at P.S. Kotwali Dehat, District Saharanpur, which was 11 k.m. from the place of occurrence. It was described that the cause of death of the deceased was fire arm injury as noted in the postmortem report prepared by PW-4, Dr. Govind Swaroop Gupta on 14.10.1982.

4. Three witnesses of fact have been examined i.e. Shakil Ahmad, PW-1, Suleman, PW-2 and Ayyub PW-3 who rushed later at the spot from their fields with torches and who are also said to have heard the cries of the witnesses and the shot being fired and also claimed to have seen the incident.

The case was investigated by Shri R.S. Sarkey, PW-6, P.S. Kotwali Dehat who after reaching the spot of offence recorded the 161 Cr.P.C. statements of PW-1 Shakeel Ahmad and other eye witnesses i.e. PW-2 Suleman and PW-3 Ayyub.

The defence has also produced two witnesses i.e. Prakash Chand, DW-1 and Rati Ram, DW-2. The defense has submitted that the appellant has been falsely implicated in this case on account of enmity with the police of P.S. Kotwali Dehat. In his statement, he elaborated that on 09.02.1982 (i.e. two months before the incident) the appellant had sent an application to the S.S.P., Saharanpur, which was in the nature of a complaint against the police of P.S. Kotwali Dehat. The said application was also signed by and thumb marked by other residents of his village.

It was on account of this enmity that the police has falsely implicated the appellant in this crime.

It has been argued by learned counsel for the appellant that it was too much of a co-incidence that the appellant who was a resident of another village could have been identified by the witnesses and significantly the other accused persons who are said to have been identified by the witnesses were never examined. No recovery of any bicycle or any other corroborative material has been made from the police. Actually the police has falsely implicated the appellant as he had made a report against the police of P.S. Kotwali Dehat to the S.S.P. Saharanpur which was signed by a large number of villagers.

Learned A.G.A. on the other hand has submitted that there was no reason for the false implication of the accused-appellant.

Having given our thoughtful consideration to the arguments advanced by learned counsel for the parties, we are of the view that there is substance in the contention of the learned counsel for the appellant that there was hardly any reason for the witnesses to have crossed the way on which the appellant used to travel. The witnesses PW-1 Shakeel Ahmad and PW-2, Suleman who are said to have crossed the way of the appellant Ranjeet, when he used to go home would not have inquired about his name and residence from the appellant as they were not acquainted to him from before and also there is very little chance that the appellant who was a rickshaw puller would have committed this robbery and murder. The act of causing the death was also not assigned to the appellant.

If there was substance in the prosecution version then after the arrest of the appellant, some recoveries of the stolen bicycles would have been made and the other accused persons would have possibly been identified after the appellant's interrogation, which has not happened in this case.

DW-1, Prakash Chandra who is an A.S.I. in Saharanpur and DW-2 Rati Ram who claimed to have typed the application sponsored by this appellant against the police of the Police Station Kotwali Dehat which also bears the signatures of many villagers and the M.L.A. of the area and provides a strong reason for the false

implication of the appellant in this case.

In this view of the matter, we are of the view that the prosecution has not succeeded in establishing the case against the appellant beyond reasonable doubt and we deem it fit to extend the benefit of doubt to the appellant.

Accordingly, the judgment of conviction recorded against the appellant by the trial court is set aside.

The appellant is acquitted of all the charges for which he was convicted. He is on bail. He need not surrender. His bail bonds are cancelled and his sureties are discharged.

The appeal is allowed.

Let a copy of this order be forwarded to the lower court for necessary compliance expeditiously.

Appeal Allowed.

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