

Ramjeet Vs. State of U.P.

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Court : Allahabad

Decided On : Dec-08-1994

Reported in : I(1995)ACC442

Judge : Virendra Saran, J.

Appellant : Ramjeet

Respondent : State of U.P.

Judgement :

Virendra Saran, J.

1. Heard learned Counsel for the applicant and the learned Counsel for the State.
2. Ramjeet has filed this revision against the Judgment and Order dated 20.4.1983 of the II Additional Sessions Judge, Faizabad dismissing criminal appeal No. 254 of 1982 against the Judgment and Order dated 30.8.1982 of the III Judicial Magistrate, Faizabad in Criminal Case No. 617 of 1979 convicting and sentencing the applicant under Section 304- A IPC to one year's R.I. and under Section 279 IPC for three months' R.I.
3. According to the case of the prosecution, on 5.4.1979 at about 9 A.M. deceased Subash was knocked down by a speeding bus. It is alleged that Subhash was looking after certain cattle which were going on the main-road. The number of the

bus is mentioned in the FIR as USL 9451 and the name of the applicant is mentioned in the FIR. It is not mentioned in the FIR as to how the name of the applicant was known at the spot. However, in evidence it has come that one Yadu Nath, who had witnessed the incident, had disclosed the name of the applicant. At the trial, the prosecution has relied on the evidence P.W. 1 Ram Khelawan and P.W. 3 Deo Narain who have stated that it was the applicant who was driving the bus. Yadu Nath has not been examined by the prosecution. P.W. 2 Birjee did not support the prosecution case and turned hostile.

4. The basic question which stares at the face of the prosecution in case as to how Ram, Khelawan and Deo Narain could name the applicant at the trial. These witnesses have not given any satisfactory explanation for knowing his name since before the incident and the only explanation offered by them is that the accused was often seen plying his bus on the route. No test-identification was held in the present case which could lend countenance to the fact that it was the applicant who was driving the bus. Learned Sessions Judge has observed that it could not be accepted that any body else was driving the vehicle at that time. It is not clear on what basis this observation has been made by the learned Judge. It is for the prosecution to establish that the bus was being driven by the applicant. The evidence in the case falls short of this.

5. In the result, this revision is allowed. The conviction and sentence passed against the applicant are set aside. The applicant is on bail. He need not surrender. His bail bonds are discharged.

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