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Prithvi Singh and ors. Vs. State of U.P.

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Court : Allahabad

Decided On : Jul-18-2001

Reported in : 2001CriLJ4424

Judge : J.C. Gupta, J.

Acts : Evidence Act - Sections 53 and 54; Indian Penal Code (IPC) - Sections 302

Appeal No. : Cri Revn. No. 1817 of 2001

Appellant : Prithvi Singh and ors.

Respondent : State of U.P.

Advocate for Def. : A.G.A.

Advocate for Pet/Ap. : D.K. Dewan, Adv.

Disposition : Revision allowed

Judgement :
ORDER

J.C. Gupta, J.

1. Heard Sri D.K. Dewan, learned Counsel for the applicant in revision and the learned A.G.A.

2. In the facts and circumstances of the case, this revision is disposed of finally.

3. The revision is directed against the order dated 6-7-2001 passed by the Additional Sessions Judge (Court No. 4), Mathura in S.T. No. 437/1987, State v. Prithvi Singh and Ors. under Section 302, IPC, P.S. Baldeo allowing permission to the prosecution to bring on record certain papers for showing that the accused revisionists were having bad and shady character, at the stage when prosecution had already closed its evidence.

4. A perusal of the impugned order indicates that on behalf of prosecution an application was moved stating that accused Prithvi Singh, Fateh Singh and Shree Chand have long criminal history and, therefore, the prosecution may be allowed to file papers showing that accused persons were of bad character. This application was opposed on behalf of the accused applicants on the ground that prosecution cannot be permitted to lead such kind of evidence. The learned Sessions Judge, however, allowed the application of the prosecution and permitted it to bring on record papers in order to show that accused persons were of bad character. learned Counsel for the applicants submitted before the Court that such a piece of evidence cannot be permitted to be brought on record being irrelevant and inadmissible. He invited the attention of the Court to Sections 53 and 54 of the Indian Evidence Act, which are reproduced below :-

Section 53. In criminal proceedings the fact that the person accused is of a good character is relevant.

Section 54. In criminal proceedings the fact that the accused person has a bad character is irrelevant, unless evidence, has been given that he has a good character, in which case it becomes relevant.

Explanation 1. This section does not apply to cases in which the bad character of any person is itself a fact in issue.

Explanation 2. A previous conviction is relevant as evidence of bad character.

5. It is not disputed before the Court that the bad character of the accused persons is not a fact in issue in the trial in question wherein it has to be decided whether

the accused persons could be held guilty for committing the murder of the deceased. Section 54 clearly lays down that in a criminal proceeding, evidence of bad character of the accused cannot be adduced unless the accused leads the evidence of good character.

6. It is thus, clear that unless the accused has given evidence that he has a good character, it is not competent for the prosecution to adduce evidence tending to show that the accused is a person of bad character. This prohibition of course will not apply in a case where bad character of any person is itself in issue.

7. In view of what has been stated above, the impugned order of the trial Court cannot be sustained and is set aside.

8. Revision is accordingly allowed. However, having regard to the fact that the trial is pending since long, it is directed that it shall be now concluded as expeditiously as possible and in accordance with law.

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