

Daya Shankar Vs. State of U.P.

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Court : Allahabad

Decided On : Jul-15-1998

Reported in : 1999CriLJ302

Judge : Giridhar Malaviya and ;J.C. Mishra, JJ.

Appeal No. : Criminal Misc. Application No. 4103 of 1996

Appellant : Daya Shankar

Respondent : State of U.P.

Advocate for Def. : P.P. Srivastava, D.G.A.

Advocate for Pet/Ap. : R.B. Sahai, Adv.

Judgement :

J.C. Mishra, J.

1. While deciding Criminal Appeal No. 2672 of 1981 and 2830 of 1981 on 27-9-1996 we found that the site plan was not prepared on scale, thereby leaving room to the defence to canvass that the fire-arm injuries, found on the body of the deceased, could not be caused from the place, from where, the accused had allegedly fired. In our opinion it is ripe time when the investigation should be made in a scientific manner. The importance of scientific investigation in solving crimes, specially where no eye-witnesses are available and also for testing the statements

of witnesses, where they are available, is assuming increasing significance. It has become necessary for the State to take immediate steps for more scientific investigations and reliable medico legal examinations of the injuries-ante or post-mortem and to maintain accurate records.

2. Despite repeated opportunities being given neither the then Additional Advocate General Sri P. P. Srivastava nor the then Director General of Police, who was served with notice nor the learned counsel for the accused has come forward with suggestions for making improvement in investigation, which at present, in our opinion has become ineffective if not out-dated.

3. The apathy, shown by the police department indicates lack of interest, unmindful of fact, that with advent of time it may not produce truthful witnesses to support the prosecution case - may be due to fact of deteriorating law and order situation and diminishing morals of the society.

4. In murder case where fire-arms are used it is essential that site plans should be prepared on scale. It may be that the Investigating Officer may not be having requisite knowledge and skill but the police department may think of imparting training and in the meantime utilize the services of Junior Engineers or Amins.

5. To start with, we think that initially the scheme of improved scientific investigation be introduced in Allahabad and after examining the results and overcoming initial practical difficulties, implement the scheme in other districts.

6. We, therefore, direct the State Government to ensure that within two months, in cases of homicidal death due to fire-arm injuries, taking place in the district of Allahabad, the site-plans shall be prepared on scale with coloured photographs.

7. We further direct that all the post-mortems in cases other than accidental deaths conducted at Allahabad be video recorded within two months. After analysing the results it may be extended to other hospitals and other types of post-mortem examinations and thereafter to injury cases.

8. We direct the State Government to submit compliance report by 1-10-1998 indicating the difficulties, if any, faced in implementing this direction and

constructive suggestions for proper implementation of the scheme.

9. We constitute a Committee headed by the learned Advocate General U. P. and comprising Inspector General of Police, Allahabad Zone, Senior-most Joint Director, Medical posted in Allahabad, Senior Medical Superintendent, T. B. Sapru Hospital and Senior Superintendent of Police, Allahabad, which shall take immediate steps for compliance of the order and shall examine various aspects and submit concrete suggestions for implementing the scheme for scientific investigations. It also appears desirable that the said Committee may also examine the feasibility of the entire investigation to be covered by a team of video photography which may be located at the district headquarter with telephone facility and a vehicle so as to reach a place of murder immediately on getting information from the police control room, which in turn must be informed of the murder by the concerned police station, over the wireless.

10. List this case on 5-10-1998. Let a copy of this order be given to the Government Advocate for compliance.

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