

Uma Shankar Vs. State of U.P.

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Court : Allahabad

Decided On : Jul-24-2000

Reported in : 2000CriLJ4689

Judge : P.K. Jain, J.

Acts : Indian Penal Code (IPC) - Sections 302

Appeal No. : Cri. Misc. Bail Appln. No. 2711 of 2000

Appellant : Uma Shankar

Respondent : State of U.P.

Advocate for Def. : A.G.A.

Advocate for Pet/Ap. : I.N. Pandey, Adv.

Disposition : Application allowed

Judgement :

ORDER

P.K. Jain, J.

1. Heard learned counsel for the applicant and the learned Additional Government Advocate.

2. The applicant is said to have killed the victim by firing at him from a close range while the victim was in his house. The incident is said to have occurred around 5.00 p.m.

3. The submission of the learned counsel for the applicant is that the First Information Report is ante-timed and the applicant has been falsely nominated in the FIR. Learned counsel for the applicant has drawn the attention of the Court towards certain discrepancies in the FIR and other police papers. He points out that in the FIR the place of occurrence is stated to be the house of the victim in village Lohagara whereas in police papers it is stated to be village Jaggi Ka Pura hamlet of village Lohgara. The distance of the police station from the place of occurrence, according to the FIR is 6 kms. whereas in the inquest report it is shown to be 7 kms. The name of the assailant in the site plan is shown to be Shankar Kol whereas in the FIR he has been described as Uma Shankar and that no blood was found at the alleged place of occurrence. Lastly it is submitted that the appellant's name is not disclosed in the inquest report. Learned A.G.A. submits that it is day light incident and the applicant and two unknown persons are said to have committed the crime and medical evidence corroborates the participation of the applicant.

4. As regards absence of the name of the applicant in the inquest report a reference is made to the decision of the Hon'ble Supreme Court reported in 2000 (2) JT (SC) 621 : 2000 All LJ 860 Rang Bahadur Singh v. State U.P. in which the Hon'ble Supreme Court in para 14 of the judgment has observed as follows : (at page 862 of All LJ) :-

The second aspect is that names of the appellants did not figure in any of the papers prepared by the Investigating Officer on 2nd August. The argument was attempted to be made in defence of such non-inclusion of the appellants on the premise that no such document required mention the names of the accused. We find it difficult to believe that even the general diary need not contain the names of the culprits whose identity was known by them. It is equally difficult to comprehend that the inquest prepared on the morning of 2nd August, 1978, should be totally silent about the name of at least the known culprits. Is it not more reasonable to

presume that no names were mentioned in all the investigative records made on 2nd August, 1978, because the Investigating Officers had not come to know of the names of any of the dacoits till then.

5. From the above observation of the Hon'ble Supreme Court it would appear that the names of the nominated accused persons were not mentioned in the G. D. entry which is prepared soon after lodging of the FIR as also in the inquest report prepared by the Investigating Officer. The observation of the Hon'ble Supreme Court further shows that in other police papers also, prepared on 2nd August, 1978, the names of the nominated accused persons did not figure any where. It was in these circumstances the Hon'ble Supreme Court has observed that it would be reasonable to presume that no names were mentioned in all the investigative records made on 2nd August, 1978 because the Investigating Officers had not come to know of the names of any of the dacoits till then. In the instant case on the basis of inquest report or on the basis of challan nash it could not be held that the name of the applicant in these documents was not mentioned as the name was not known till preparation of these documents.

6. However, considering other discrepancies pointed out by the learned counsel for the applicant and without meaning to express any opinion on the merits of the case I am of the view that the applicant may be enlarged on bail.

7. Applicant Uma Shankar involved in case crime No. 27 of 1999, Under Section 302 of the IPC P.S. Bara, district Allahabad shall be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of C.J.M. Allahabad.