

Ajeet Singh Vs. State of U.P.

Ajeet Singh Vs. State of U.P.

SooperKanoon Citation : sooperkanoon.com/491026

Court : Allahabad

Decided On : Aug-21-1999

Reported in : 2000CriLJ3828

Judge : K.D. Shahi, J.

Acts : Uttar Pradesh Zimindari Abolition and Land Reforms Act - Sections 229B;
[Indian Penal Code \(IPC\), 1860](#) - Sections 307

Appeal No. : Criminal Appeal No. 2391 of 1980

Appellant : Ajeet Singh

Respondent : State of U.P.

Advocate for Def. : J.C. Pande, A.G.A.

Advocate for Pet/Ap. : Pratap Narain Misra, ;A.D. Giri and ;Shashank Shekhar, Adv.

Disposition : Appeal allowed

Judgement :

K.D. Shahi, J.

1. Appellant-Ajeet Singh has filed this appeal against the judgment and order dated 17-10-1980 passed by Sri M. H. Khan, the then Vth Additional Sessions

Judge, Muzaffarnagar in Sessions Trial No. 89 of 1980 (State of U.P. v. Ajeet Singh and others) by which he has been convicted under Section 307, I.P.C. and sentenced to undergo three years' R.I.

2. The brief facts of the case are that Ratan Chandra (hereinafter called as 'complainant side') son of Chet Ram lodged a First Information Report on 18-6-1979 at 9.30 a.m. against Ajeet Singh and his two sons, namely, Rajendra Singh and Sukhvindra Singh (since acquitted by the learned Sessions Judge) with the allegations that in the morning of 18-6-1979 at about 8.00 a.m. he along with his son Rajendra Pal was going towards the grove and when they reached there, they saw that all the three accused persons were ploughing the grove, which belonged to the complainant side. When the complainant asked not to plough the said plot Ajeet Singh all of sudden fired by his revolver, which hit the victim (complainant) in the arms and in chest. Rajendra Singh and Sukhvindra Singh exhorted to kill the complainant and his son Rajendra Pal then Ajeet Singh made two shots, which hit in, the left arm of Rajendra Pal also.

3. After this appellant-Ajeet Singh (hereinafter called as 'appellant side') also lodged a First Information Report with the allegations that on 18-6-1979 at 8.00 a.m. while he was ploughing his plot (grove) No. 643, Ram Lal, Ratan Chandra, Rajendra Pal and Vinod Kumar came at the said plot of appellant, they exhorted, Rajendra had a revolver, Ratan Chandra had a rifle and Ram Lal and Vinod Kumar had country made pistols, and fired, which hit the appellant. After this the appellant in his self-defence fired from his revolver. It is alleged that since he was hospitalized and lodged the F.I.R. at 15.10 a.m. (sic).

4. The F.I.R. of complainant side was registered as Crime No. 127 of 1979 while that of the appellant side as Crime No. 127 A, both the F.I.R.'s were registered under Section 307, I.P.C. and both were tried separately. The complainant side has been acquitted and on the appellant side Rajendra Singh and Sukhvindra Singh were acquitted and Ajeet Singh has been convicted under Section 307, I.P.C. and sentenced to 3 years' R.I., against which order the instant appeal has been preferred.

5. I do not want to repeat the entire evidence on record but it is clear that most of the facts are admitted. It is admitted fact that the appellant side was ploughing plot of grove, which clearly shows that appellant side was there at the place of occurrence from before and it is the complainant side, which went there later. The complainant side also appears to be duly armed with, this is why they could cause injury to Ajeet Singh.

6. From a bare perusal of evidence, it is clear that the appellant side might have been owner of Plot No. 643. The learned Sessions Judge, in his judgment, has held that both the parties were co-tenant of plot No. 643 and there was no partition. If it was so, both the parties had a right of possession over every inch of plot No. 643. Then if appellant side was ploughing the said plot, they were doing so under their right and the complainant side was not entitled to go to the plot duly armed to oust the appellant side. Ratan Chandra (P.W. 1), in his statement, specifically admitted that at the time of occurrence when he went to the spot, saw the accused persons ploughing the said plot by the tractor, he did not go to the police station to lodge the F.I.R. He had got adequate time to take recourse to the legal machinery instead of ousting the appellant side by force.

7. The complainant side, in his F.I.R. did not mention the number of the said plot whereas in the F.I.R., which was lodged by the appellant side, the appellant side had specifically stated that this was plot No. 643. The witnesses of the complainant side, in their statements, have specifically stated that the number of grove plot was 641 and 643. The learned Sessions Judge has discussed that the appellant had lost the case under Section 229B of U.P.Z.A. and L.R. Act, but specific judgment and order has been filed in this appeal, which has been decided by Sri G. P. Ghildiyal, Pargana Adhikari, Sadar, Muzaffarnagar in O.S. No. 48, under Section 229-B of U.P.Z.A. and L.R. Act which clearly says that Ajeet Singh was a 'Bhumidhar' of this plot No. 643.

8. I have gone through the judgment recorded by the learned Sessions Judge, which shows that he was deciding a civil suit between the parties. It is the prosecution, which has to prove its case to the hilt, the accused-appellant side has only to prove that its case may be probable. If the accused side is able to establish

that it has got a probable case of self-defence, it is entitled for acquittal. The entire case of the parties is to be looked into by this angle alone.

9. The evidence shows that the appellant side may also be owner of plot No. 643; evidence shows that they were ploughing the plot; evidence shows that Ajeet Singh has also suffered injuries but in the F.I.R. the complainant side nowhere alleged that accused-Ajeet Singh has suffered only injury. Ratan Chandra, in his statement, admitted that when there was a fire made on his son then his son also fired by his revolver in his self-defence. Thus, it is admitted fact that Rajendra Pal had got a revolver. It is also admitted fact that he fired from his revolver. He also admitted that Ajeet Singh suffered injuries. Thus, injuries of Ajeet Singh are admitted.

10. It is bounden duty of the prosecution to explain the injuries of the accused side in the F. I. R. itself and if it has failed to do so, it shall be presumed that the prosecution is suppressing the origin and genesis of the occurrence. It also may go to show that what the accused side says, may also be correct. It again shows that the prosecution has not come before this Court with clean hands.

11. There was also revision against the acquittal of the complainant side, which was not at all pressed but the facts of the instant case show that the accused side has also got a reasonable right of self-defence of their property and they had also suffered injuries, which were not explained, therefore, they are entitled to acquittal on facts. Not only this the learned Sessions Judge has also found the case of the prosecution false to the extent of implication of Rajendra Singh Sukhvindra Singh, who have clearly been acquitted of the charges of which they have faced the trial. The learned Sessions Judge has found the case of the complainant side false to the extent that the sons of accused-appellant-Ajeet Singh exhorted that Ratan Chandra and his son Rajendra Pal be killed and then Ajeet fired, which hit Rajendra Pal. The case of exhortation has been disbelieved by the learned Sessions Judge also and if, this case of exhortation is false, the participation of Rajendra Singh and Sukhvindra Singh is also false and then, if Ajeet Singh fired out of his own in self-defence for his person and property, he cannot be held to be guilty particularly in the circumstances of the case where he was apparently owner

in actual possession of plot No. 643 and was ploughing the said plot from before the complainant side went there duly armed. In view of the facts and the circumstances discussed above. Ajeet Singh was also entitled to acquittal of the charge of which he faced the trial.

12. The appeal is hereby allowed. The judgment and order passed by the learned Sessions Judge convicting the appellant under Section 307, I.P.C. and sentencing him to undergo 3 years R.I. is hereby set aside. The appellant-Ajeet Singh is acquitted of the charge under Section 307, I.P.C. of which he has faced the trial. He is on bail. He need not surrender before the Court below. The bail bonds are cancelled and the sureties are discharged.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com