

Lotan Pd. and Others Vs. State of M.P.

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Court : Madhya Pradesh

Decided On : Feb-13-2001

Reported in : 2001(2)MPHT125

Judge : Mr. Fakhruddin, J.

Acts : Code of Criminal Procedure (CrPC) , 1974 - Sections 228; [Indian Penal Code \(IPC\), 1860](#) - Sections 307 and 336

Appeal No. : Misc. Criminal Petition No. 807/2000

Appellant : Lotan Pd. and Others

Respondent : State of M.P.

Advocate for Def. : Shri Padam Singh, Addl. Govt. Adv. and ;Shri Surendra Saxena, Govt. Pleader

Advocate for Pet/Ap. : Shri Pradeep Katare, Adv.;Shir V.K. Saxena, Adv.

Disposition : Misc. criminal petition allowed

Judgement :

ORDER

Fakhruddin, J.

1. The revision is against the order dated 30-10-2000, passed by the Special Judge, whereby the petitioners/accused have been charged for the offence under Section 307 of IPC.

2. Learned counsel for the petitioners stated that the charge-sheet which has been framed against the petitioners-accused does not contain the required ingredients of Section 307 of IPC. He read out the same to contend that there is no material against accused.

3. Learned counsel appearing for the State, on the other hand, submitted that there is sufficient material on record to frame the charges against the accused-petitioners and the Court-below after considering the entire material on record, passed the impugned order.

4. In this case, the FIR had been lodged on 3-7-1992, typed copy of which has been filed by the counsel for the petitioners. On perusal of the FIR, it is noted that the complainant Govindrai, who is lodger of the FIR, earlier had made a written complaint to the concerned police station to the effect that Anil, Sunil, Ramesh, Surendra and Lotan had fired at him twice with intention to kill him. After receipt of such a complaint, the ASI, Shri R.U.S. Yadav went on the spot and investigated the matter, and after inquiry, the inquiry report was submitted by him according to which the accused-petitioners named above have been found to have committed an offence which comes within the ambit of Section 336 of IPC. The crime accordingly was registered and the challan was filed against the petitioners for an offence under Section 336 of IPC. The learned Magistrate, however, considering the facts and circumstances and the material on record especially the FIR found that the offence under Section 307, IPC is made out, against the petitioners/accused. The case therefore was committed to the Court of Sessions and the Sessions Court by the impugned order, after considering the matter, framed the charges against the accused.

5. Learned counsel for the State submitted that the complainant was fired twice by the petitioners with intention to kill him. It is pointed out by him that one Surendra Tiwari alongwith other persons got registered one bigha of complainant's land, in their names, in the month of February, 1992, but they did not pay a signa pie to

the complainant. When they came to take possession of the aforesaid land, the complainant asked them to pay the money first and then take the possession of the land in question, on which they threatened the complainant. Next day, at 5 a.m. on the morning they again came to the residence of the complainant and fired at him twice. The relevant portion of the FIR is extracted below:--

^lqjsUnz frokjh us vU; ykxksa lfgr ,d ch/kktehu Qjoh 92 esa jftLVh djkbZ Fkh] ftldk iSlk vkt rd ugha fn;k] cl ;s ykxdkCtk ysus vk;s rks eSaus iSlk nsus dks dgk] vkSj iSlk u nsus rd dCtk ugha djusdks dgk] jksdus ij mlus /kedh nh fd bc rqe jg yks bl bykds esa rqe esa ls ,d vk/kdks tku ls gkFk /kksuk iM+sxA vkt lqcg 5 cts ds djhc esjs fuokl ds ihNs ls nksQk;j fd, x,A ftuesa ,d xksyh lulukrh gqbZ fudy x;h] vxj og vUnj dejs es pyh tkrhrks esjk ,dk/k ifjoktu vo'; ej tkrk] nwljh xksyh us nhokj esa yxHkx 1 1@2 bapyEckbZ&pk SM;+kbZ dk lfdZy xM~

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