

**Eric Sunil Edride Vs. State**

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**Court :** Delhi

**Decided On :** Sep-06-1978

**Reported in :** 14(1978)DLT208

**Judge :** R.N. Aggarwal, J.

**Acts :** [Indian Penal Code \(IPC\), 1860](#) - Sections 452; [Arms Act, 1959](#) - Sections 27

**Appeal No. :** Criminal Appeal No. 99 of 1978

**Appellant :** Eric Sunil Edride

**Respondent :** State

**Judgement :**

**R.N. Aggarwal, J.**

(1) Ram Babu aged 25, Sri Krishan aged 18 and Eric Sunil Edridge aged 22 were tried in the Court of Shri V.B. Bansal, Additional Sessions Judge on charges under Sections 452, 392 and 397 read with Section 34 of the Indian Penal Code. In addition to the above charges Sunil was also tried for an offence under Section 27 of the Indian Arms Act. An order for externment was made against Ram Babu on 21st August 1974 and he was also tried, in addition to the charges mentioned above, for the offence under Section 142 of the Bombay Police Act. The Additional

Sessions Judge found all the accused guilty of the offences charged with and sentenced each one of them to rigorous imprisonment for 2 years on the charge under Section 432 and to rigorous imprisonment for 7 years on the charge under Section 392 read with Section 397 of the Indian penal Code. Sunil was further sentenced to rigorous imprisonment for 2 years for the offence under the Arms Act and Ram Babu was sentenced to rigorous imprisonment for 6 months for the offence under section 142 of the Bombay Police Act. However, the sentences of imprisonment imposed were ordered to run concurrently. Against their convictions and sentences all the accused have preferred appeals through jail. Criminal Appeal No, 99 of 1978 by Sunil and Criminal Appeal No. 96 of 1978 by the other two accused. This judgment will dispose of both the appeals.

(2) The case for the prosecution is this : Ashok Kumar Jain (P.W. 2) has an Ice Cream Factory known as Capital Ice Cream Factory at premises No. 4/16 Viswas Nagar, Panday Road. On 17th April 1976, as usual, Public Witness . 2 went to the factory at about 9-10 p.m. Public Witness . 2 was taking accounts from the Munim Dwarka Nath (P.W. 3). Ram Naresh (P.W. 4) and Nobar (P.W. 5) were busy in the manufacture of ice cream in the adjoining room. It is in evidence that the working hours of Public Witness s. 4 and 5 are 10 p.m. to 6 a.m. Ram Babu, Sri Krishan and Sunil came to the factory of Public Witness . 2 at about 1 a.m. in the night. Ram Babu asked for water. Dwarka Nath brought two glasses of water and gave one to Ram Babu and the other to Sri Krishan, thereafter he brought another glass of water which he gave to Sunil. After drinking water Ram Babu requested Public Witness . 2 for some money but P W. 2 did not agree to this request of Ram Babu; then Ram babu asked Public Witness . 2 to come out of the factory where he repeated the request and said that he was badly in need of money, but again the request was turned down by Public Witness . 2. Public Witness PW. 2 turned to go back inside the room when Ram Babu took out a knife and put it at the back of Public Witness . 2. Sri Krishan and Sunil also took out knives and threatened that in case any one moved he would be stabbed, Shri Krishan went to the table and took out of the drawer of the table Rs. 450.00 . Ram Babu snatched the wristwatch from the hand of Public Witness . 2, thereafter. Sri Krishan and Ram Babu walked away swiftly. Public Witness s. 2,3,4, and 5 were able to catch Sunil along with the knife. P.W. 2 and the other witnesses took Sunil to the police station where Public

Witness . 2 lodged a report. Kalyan Singh, Sub-Inspector (P.W. 10), seized the knife and sealed it into a parcel, thereafter Public Witness . 10 went to the spot and recorded the statements of the witnesses.

(3) On 16th May 1976 Public Witness . 10 received information that Ram babu and Shri Krishan accused were present in a room in Pilloo Ka-Tilla. Kalyan Singh accompanied by constable Daryao Singh and Dwarika Nath (P.W. 3) went to Pilloo Ka-Tilla and there apprehended Ram Babu and Sri Krishan from inside a room. On the search of the person of Ram Babu. a wrist-watch and knife were recovered. Similarly on the search of Sri Krishan a knife was recovered from his person. Public Witness . 10 seized all the above said articles and after preparing sketches of the knives sealed them in separate parcels.

(4) Ram Babu accused in his statement at the trial admitted that an order for his externment was passed in 1974 but denied the rest of the allegations of the prosecution. Ram Babu stated that he was arrested by the police from village Ikara. District Manipur on 15th May 1976 and brought to Delhi. He further stated that he had not come to Delhi after the order of externment was passed against him. Ram Babu stated that he had been falsely implicated in the case and that witnesses had given false evidence against him under the influence of Ashok Kumar.

(5) Sri Krishan in his statement at the trial denied the allegations of the prosecution. He stated he used to take ice cream rehri from the factory of Ashok Kumar as a hawker and that there was a dispute between him and Ashok Kumar over the accounts and that a quarrel took place between him and Ashok Kumar on 12th April 1976. Sri Krishan further stated that he had been implicated falsely by Sub-Inspector Kalyan Singh and Ashok Kumar and the other witnesses had given evidence against him under their influence. Sri Krishan further stated that he was arrested by Kalyan Singh on 12 May 1976 from his house.

(6) Sunil in his statement at his trial refuted the allegations of the prosecution and stated that he was arrested from his house by Sub-Inspector Kalyan Singh while he was sleeping and that he had been involved in a false case. Sunil in support of his defense examined his mother Mrs. F.Edridge (D.W. 2), Peter (D.W. 3) and

Narender Kumar (D.W. 4). Sri Krishan in support of his defense examined his mother Phoola Devi (D.W. 1), and Ram Babu examined his mother Smt Bataso (D.W. 5) and Head Constable Harcharan Singh (D.W. 6).

(7) P.W. 2 had in the report to the police which was lodged within about an hour of the occurrence named Ram Babu and Sri Krishan as the other culprits. He had stated that he know Ram Babu since he lived in the same Mohalla and Sri Krishan used to visit his factory. As regards Sunil whom he had produced at the police station he had stated that he did not know him earlier. Nothing has been brought out in the lengthy cross-examination P.W. 2 that he had any motive to implicate Ram Babu and Sunil falsely. The suggestion put to Public Witness . 2 on behalf of Sri Krishan was that Sri Krishan used to sell ice-cream on behalf of Public Witness .2 and that some money was due to Sri Krishan on account of the sale of ice cream and there was a quarrel between P.W. 2 and Sri Krishan over the payment of the money a day prior to the occurrence and that he was falsely implicated by Sub-Inspector Kalyan Singh at the instance of Public Witness . 2. The above suggestion was refuted by Public Witness .2. There is evidence of P W.4 that Sri Krishan used to visit the factory for getting the rehri for the hawkers but there is no evidence that Sri Krishan himself used to sell the ice cream on behalf of Public Witness . 2.

(8) Even assuming that some money was due to Sri Krishan on account of sale of ice cream and there was some sort of quarrel between Public Witness . 2 and Sri Krishan over the payment of money. The question arises whether the occurrence as alleged took place or not. Sunil was caught at the spot and was handed over to the police at the police station. The first report was recorded within about an hour of the occurrence. In the first report the names of all the culprits were mentioned. Public Witness .2 had in Court made a detailed statement regarding the occurrence. Public Witness . 2 knew Ram Babu appellant for many years and he did not know Sunil prior to the occurrence. There was no motive whatsoever for Public Witness . 2 to falsely accuse Ram Babu and Sunil of a serious crime like robbery; if there was any quarrel between Sri Krishan appellant and Public Witness . 2 he would have only leveled a false charge against Public Witness . 4 Sri Krishan and not against Ram Babu and Sunil. Public Witness s. 3, 4 and 5

were completely independent witnesses and they had supported the testimony of P.W.2 on all material particulars. I have carefully perused the statements of Public Witness s. 2, 3, 4 and 5 and their testimony bears the impress of truth. All the accused have in their statements at the trial stated that they have been falsely implicated by Sub-Inspector Kalyan Singh and the witnesses have given evidence against them under his influence. Kalyan Singh, Sub-Inspector gave evidence that he was posted at the police station Farash Bazar only in February 1976 and that he did not know Public Witness . 2 prior to the occurrence and further that he was not even aware of the existence of the factory in that locality. There is no evidence on the record to show that Sub-Inspector Kalyan Singh had any motive to implicate all or any of the accused falsely in the case.

(9) Besides the testimony of the eye witnesses there was the circumstance of the recovery of wrist watch belonging to Public Witness . 2 from Ram Babu accused. The recovery of the wrist watch from Ram Babu was supported by Public Witness s. 2, 3 and 10. Public Witness . 2 had identified the wrist watch in an identification proceeding conducted by Shri Manjit Singh, Metropolitan Magistrate. There was no reason to doubt the veracity of the witnesses regarding the recovery of the wrist watch belonging to Public Witness . 2 from Ram Babu accused.

(10) The defense of Ram Babu accused is that he was arrested by the police from village Ikaira district Manipur on 15th May 1976. Public Witness . 8 Mahesh Singh gave evidence that in 1974 Ram Babu accused had come to him in village Ikaira as he was exonerated from Delhi and that about 5 or 6 months back police had come to village Ikaira accompanied by Sri Kalyan and Ram Babu accused. The witness was declared hostile and was permitted to be examined by the Additional Public Prosecutor. The witness in cross-examination denied to have stated before the police that on 20th April 1976 Ram Babu and Sri Krishan had come to him in village Ikaira and told him that about 3 or 4 days they had committed mistake in as much as they had on 18th April 1976 gone to the factory of Ashok Kumar and snatched Rs. 450.00 besides one wrist watch from him. The witness also denied to have stated that Ram Babu had a wrist watch of 'SICO' make. I have carefully gone through the statement of Public Witness . 8 and I am of the view that he has not told the truth in the Court and he has tried to favor the accused.

(11) The defense of Sunil accused is that on the night of 17th/18th April he was sleeping at his house and was awakened by the police in the night and taken to the police station. Sunil in support of his above defense examined his mother D.W. 2, Peter D.W. 3 and Narender Kumar D.W. 4. I have perused the statements of the above named witnesses and their testimony does not inspire confidence. As already stated, there was no motive at all for the police to have falsely arrested Sunil. Public Witness . 2 and the other witnesses had also no motive to invent a false charge against Sunil. The defense version of Sunil has no truth or substance in it.

(12) It is not disputed that an externment order was made against Ram Babu in April 1974. It appears that Ram Babu is a man of desperate character and he had gone along with his associates to Public Witness . 2 with the determination of taking money and on the refusal of Public Witness . 2 give money, all the accused robbed P.W. 2 of the money and wrist watch at the show of knives. On the above finding, all the appellants would be clearly guilty of the offences charged with.

(13) There is no scope for interference in the sentences awarded to them. In the result, both the appeals are dismissed. The appellants be informed of the order in jail.