

Fakrudeen @ Shakoor Mohd. Vs State of Rajasthan

Court: RAJASTHAN HIGH COURT

Date of Decision: Nov. 19, 2016

Acts Referred: Criminal Procedure Code, 1973 (CrPC) - Section 451, Section 457

Citation: (2017) 1 CriLR 68

Hon'ble Judges: Mr. Gopal Krishan Vyas and Mr. Dinesh Mehta, JJ.

Bench: Division Bench

Advocate: Mr. J.P.S. Choudhary, Public Prosecutor, for the Respondent; Mr. Ramesh Purohit and Mr. Neeraj Gurjar, Advocates, for the Applicant

Final Decision: Allowed

Judgement

1. In the aforesaid appeal, an application has been filed under Section 451/457 Cr.P.C. by applicant Ankush Sen S/o Late Shri Madan Lal Sen,

R/o Shahpura District Bhilwara in which it is prayed that the applicant is the legal heir of the deceased Madan Lal.

2. In the aforesaid appeal, the accused Fakruddin and Vaheed Mohammed were convicted for committing murder of the father of the applicant

Madan Lal vide judgment dated 22.10.2011.

3. Learned counsel for the applicant submits that during investigation, gold and silver jewellery/ornaments of deceased Madan Lal, father of the

applicant, were recovered and while deciding the case, the learned Addl. Sessions Judge, Shahpura, District Bhilwara specifically observed in Para

No.103 of the judgment dated 22.10.2011 that recovered articles may be handed over to the legal heirs of the deceased Madan Lal after expiry

of limitation period of the appeal. The description of which has been mentioned in the Fard Baramadgi.

4. According to learned counsel for the applicant, the applicant is entitled for custody of all the recovered/seized property being the legal heir of

deceased Madan Lal because there were four members in the family of the deceased Madan Lal i.e., (1) Madan Lal (deceased), (2) Smt Madhu

Devi, Wife of the deceased Madan Lal, (3) Sunil, son of the deceased Madan Lal and (4) the present applicant Ankush Sen.

5. According to learned counsel for the applicant, the deceased Madan Lal was murdered in this case and his wife Smt. Madhu and son Sunil Sen

were died on 04.04.2006, therefore, the applicant Ankush Sen is the only legal heir to get the custody of the silver and gold ornaments, therefore,

order may be passed to release the seized property to the applicant, who is the only legal heir of the deceased Madan Lal being son.

6. Upon application, the learned Public Prosecutor is directed to obtain report from the concerned Police Station with regard to the correctness of

the facts about legal heirs of the deceased Madan Lal.

7. In pursuance of the aforesaid directions, the learned Public Prosecutor submitted a communication dated 07.11.2016 sent by the SHO Police

Station Shahpura, District Bhilwara in which it is reported that the applicant Ankush Sen is the only legal heir of the deceased Madan Lal. Along

with communication dated 07.11.2016, other documents are annexed to satisfy query of the Court with regard to legal heir of the deceased

Madan Lal. The communication dated 07.11.2016 is hereby taken on record. The Public Prosecutor is not disputing the fact that the applicant

Ankush Sen is the legal heir of the deceased.

8. In view of the above, the application filed by the applicant Ankush Sen, being the legal heir of the deceased Madan Lal is hereby allowed and it

is ordered that the recovered property which is silver and gold jewellery and watches originally belong to the deceased Madan Lal may be

released in favour of applicant Ankush Sen S/o Late Shri Madan Lal, upon furnishing Supardaginama in the sum of Rs.5,00,000/- with one surety

of likeamount to the satisfaction of Addl. Sessions Judge, Shahpura District Bhilwara upon usual conditions.