

Prabhu Nath Yadav Vs State of Uttar Pradesh

Court: Allahabad High Court

Date of Decision: Sept. 10, 2007

Acts Referred: Criminal Law (Amendment) Act, 1932 " Section 7
Penal Code, 1860 (IPC) " Section 147, 307, 323, 332, 336
Prevention of Damage to Public Property Act, 1984 " Section 3, 4

Hon'ble Judges: Barkat Ali Zaidi, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Barkat Ali Zaidi, J.

This is a revision against framing of charge (on 20.4.2007) in ST. No. 172 of 2007 State v. Ram Kishan Yadav by

Addl. Sessions Judge, Fast Track Court, Chandauli.

2. The revisionist stands charged under Sections 147, 336, 338, 323, 307, 353, 332 I.P.C. and Section 3 /4 of Prevention of Damage to Public

Property Act, 1984 and Section 7 of Criminal Law Amendment Act.

3. Heard Sri Manish Tiwary counsel for the revisionist and Sri S.D. Tripathi, Addl. Government Advocate for the State.

4. A detailed description of what transpired is required and a full picture that transpired can emerge only from a transcription of the narration as

given in the first information report. English translation of the first information report is, therefore, being given below:

Today on 9.8.2001, I, the S.H.O. Sri Ashok Kumar Singh alongwith Const. 336 Parasnath Singh, Const. 313 Rajesh Singh, Cost. 66 the Pratap

Singh, Cost. 215 Udal Yadav. Const. Babban Singh Const. Nityanand Singh had gone on the Government Jeep driven by driver Const. Virendra

Singh and was present alongwith Sadar Tehsildar Sri Santosh Kumar, near the meeting place, where Samajwadi Party had convened a U.P. Band

meeting infront of Tehsil Chandauli near the G.T. Road. At about 11.00, Samajwadi Paty workers started arriving by Jeep and tractors. At about

12.00, Samajwadi Partv President of District Chandauli named Ram Kishun Yadav came to address the meeting on mike and he said that," the

brave commorates have already taken possession of the G.T. Road and have also crippled the law and order of the State. The train is also passing

through on my head. Take possession of this also, so that the train may not move. Raj Bhar of Sakaldiha, Raj Kumar Jaiswal of Sarai Guddu of

Mangal Sarai Ke Chhotu who are entrusted with this, are supposed to go with other commorates and supposed to stop the coming and going of

the trains." Hearing in this, the above mention 4 persons alongwith the other companions who were about 300-350 in number, started moving from

the meeting place. It was, at this time that the S.H.O. and Tehsildar Santosh Kumar Dwivedi tried to persuade them not to do what they proposed

to do. On this persuasion, they paused for some time. In the meanwhile, S.D.M Vijay Kumar Srivastava and CO. Shakaldiha Sri Prem Chandra

arrived from the side of Sakaldiha and told that some people are sitting at railway crossing Sakaldiha on the rails and have obstructed the very

movement of the trains. The duties were fixed, according to the duty chart, one tear gass squad was posted on the meeting place. On the

information of the S.D.M. Sakaldiha, CO. Shakaldiha and other accompanying employees alongwith tear gass squad, proceeded towards the

particular place. At Shakaldiha Tiraha, the second party comprising of S.S.I. Jai Nath Mishra, Const. Raj Narain Const. Marahu, Const. Deena

Nath, Const. Jiya Lal, Const. Vinod Sharma and H.C Nagendra Prasad Yadav joined this party. Alongwith the second party, we arrived at

Shakaldiha railway crossing, where the above mentioned 4 persons alongwith 300-350 Samajwadi Party workers were sitting on the railway line

and on the sleepers, obstructing the movement of the trains. We tried to persuade them but they did not yield instead they started raising slogans

against the administration and Government. They were told that their act and conduct is contrary to law. They were asked to disperse at once and

were also told that the railway line is of utmost importance and they must clear the obstruction but they did not yield and turned deaf ears to the

instructions given to them and continued to sit on the railway line. They were given repeated instructions but in vain. In order to clear the railway

track, obstructing sleepers and roll line were attempted to be removed but the people sitting on the railway track got excited and they raising ante

Government slogans and with the intention to kill the administrative officers and the police personnels, staged pelting stones on them and started

removing the fish plates of the railway line. In the meanwhile, C.O. Chandauli Sri Chandrika Singh, S.D.M. Sadar Chandauli Sri RamYash

alongwith other accompanying employees and extra police force comprising of S.O. Sayeed Raza Ashok Kumar Mishra, S.O. Dheena Ajai Kumar

Singh and S.I. R.P. Yadav, P.S. Dhanapur and other accompanying employees also came on the spot. Looking to the sensitivity of the occasion,

the trouble makers were again challenged and their dispersal was attempted just by beating the dandas on the road. This further excited the S.P.

Workers who became violent and started pelting the stones lying on the railway line vigorously. This completely damaged the west cabin of the

railways and the stone pelting by the S.P. Workers caused injuries to Tehsildar Sadar Sri Santosh Kumar Dwivedi and other police personnels. As

the situation was turning out beyond control, on the order of the S.D.M. Sri Ram Yash, the tear gas shells were used but the situation did not

come under control still, therefore, on the orders of the S.D.M. Sadar Ram Yash in the presence of S.D.M. Shakaldiha and CO. Chandauli and

CO. Shakaldiha force was used. This dispersed the crowd. After this, on the meeting spot thousands of people alongwith the Member of

Parliament Jawahar Jaiswal and M.L.A. Prabhu Yadav and District President Samajwadi Party Ram Kishan Yadav came laising slongas on

railway crossing and gave exhorting and provocative speeches and again jammed the railway line. Meanwhile, two goods train both from upside

and down side came there. On this, the violent around in the presence of the above mentioned leaders pelted stones which damaged the engine of

the goods train and also caused injuries to the driver. Seeing the situation, going out of control, the higher officials were informed and again on the

orders of S.D.M. Sadar, tear gas was used. In order to maintain law and order and peace, light force was used, on which the demonstrators

started taking to their heels while also pelting the stones on the administrative officers and the force present. Then the Samajwadi Party workers and

leaders reached the station and damaged the tables and chairs and the documents and also disrupted the communication system of railways and

were trying to set them ablaze. In order to disperse them, light force was again used which made them run helter and skelter. While running away

they stumbled on the railway line and escaped hither and thither. In this process, they also incurred some injuries. This act and conduct of the

accused is disrupting the law and order system and also disrupting the public order. The Railway movement was obstructed and impaired. The

Government property was damaged and the general social life got crippled. The atmosphere of terror and fear spread out over the entire area. This

act of the accused persons is punishable under Sections 147, 336, 338, 323, 307, 353, 332 and 427 I.P.C., Section 3 /4 of Damage to

Government Property Act and Section 7 of Criminal Law Amendment Act, therefore, get the case registered.

5. Before proceeding further, we need to be reminded of the guide lines given by the Supreme Court about framing of the charges in case of State

of Bihar Vs. Ramesh Singh, and Rajbir Singh Vs. State of U.P. and Another, where it has been clarified that a charge can be framed even on the

basis of grave suspicion.

6. One concession which needs to be granted to the revisionist is that from the facts contained in the F.I.R. as mentioned above, no case u/s 307

I.P.C. is involved. That there was no intention, to kill anyone, and only stones were thrown which caused injuries.

7. As regards the charges under the remaining penal provisions, the argument from the side of the revisionist is that he is a sitting M.L.A. of the

area and he had gone there only to pacify matters and did not indulge in violence and only gave a speech and nothing said in the speech which may

incite the mob to violence.

8. It will appear from the narration of the facts of the first information report given above that the mob caused extensive damage to Public

Property, Railway Property and even set the Railway Records on fire. The question whether the mob fury and the damage to Public Property, was

caused, because of the speech of the revisionist or whether there was something in the speech to incite the mob to violence, is something which is

to be determined &\$ the basis of evidence at the time of Trial. No tape or record of the speech, has been presented before the Court, on the basis

whereof, any such prior assessment may be made.

9. As such, it cannot be s-aid for the present that there is no material on the basis whereof, charges cannot be framed against the revisionist, as has

been done by the Trial Court.

10. With the aforesaid modification of the charge u/s 307 I.P.C.