

(2010) 08 AHC CK 0178

Allahabad High Court

Case No: None

Ripudaman @ Raisahab Singh
and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision: Aug. 2, 2010

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 216
- Penal Code, 1860 (IPC) - Section 147, 148, 323, 325, 34
- Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 - Section 3(1)

Citation: (2011) 1 ACR 766

Hon'ble Judges: S.C. Agarwal, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

S.C. Agarwal, J.

This criminal revision is directed against the order dated 22.5.2010 passed by Additional Sessions Judge, Fast Track Court No. 1, Jaunpur in Sessions Trial No. 600 of 2001 State v. Ripudaman and Ors. whereby the court below allowed the application moved by the complainant Ram Sagar Ram u/s 216 Cr.P.C. for altering the charge.

2. Heard learned Counsel for the revisionists and learned A.G.A. for the State.

3. There is no need to issue notice to the complainant.

4. Initially, charge under Sections 147, 148, 323/34, 325/34, 504, 427 I.P.C. and 3(1)(x) S.C./S.T. Act were framed against the revisionists. An application u/s 216 Cr.P.C. was moved by the complainant for addition of charge u/s 379 I.P.C. on the ground that accused persons, at the time of incident, took away saria, cement, chairs etc. from

the place of occurrence. Learned Judge found that the accused persons came on the land of the complainant, took away saria, cement and chairs, damaged the wall, beat the complainant and his father, attempted to snatch the licensed revolver of complainant's father. The accused persons were more than five in numbers and, therefore, the offence was covered by Section 395 I.P.C. and charged the revisionists accordingly.

5. It is submitted by learned Counsel for the revisionists that mere theft of cement, saria, chairs etc. is not sufficient to bring the case within the scope of Section 395 I.P.C., but charge could have been framed only u/s 379 I.P.C.

6. Learned A.G.A. submitted that accused were more than five in numbers. They used weapons in beating the complainant and his father, tried to snatch the licensed revolver of complainant's father, caused the injuries and looted cement, saria, chairs etc. and thus prima facie offence u/s 395 I.P.C. is made out.

7. At the stage of charge, meticulous examination of evidence is not to be done. Only prima facie case is to be considered. Learned Sessions Judge found prima facie case u/s 395 I.P.C. and framed charge accordingly.

8. I do not find any illegality in the impugned order dated 22.5.2010. According to Section 216 Cr.P.C., any Court may alter or add any charge at any time before judgment is pronounced. Whether charge u/s 395 I.P.C. is proved or not, shall be seen by the trial court at the time of judgment after considering the evidence. At this stage, I do not find any good ground to interfere in the revision.

9. The revision lacks merit and is accordingly dismissed.