

Farzand & Others Vs State of U.P.& Another

Court: Allahabad High Court

Date of Decision: Dec. 16, 2008

Hon'ble Judges: A.K.Roopanwal, J

Final Decision: Dismissed

Judgement

A.K. Roopanwal, J.

This is a revision against the order dated 19.11.08 passed by the Special/Additional Sessions Judge/FTC No.1, Saharanpur in Special S.T.

No.707/06 whereby the court summoned the revisionists to face trial for the offences punishable under Sections 147, 148, 324, 323, 504, 506,

IPC and 3(i)(x), S.C./S.T. Act in exercise of the powers conferred upon the court under Section 319, Cr.P.C.

It appears from the record that in the FIR lodged by the husband of the victim (PW1) five persons were nominated. Three persons were the

revisionists and two were those who are presently facing the trial in the aforesaid Special Sessions Trial. When the matter was investigated by the

police, charge sheet was not submitted against the revisionists and therefore, they were not tried. When the case came on trial and the statements

of PW1 Suresho (injured) and PW2 Umesh were recoded, the court in exercise of the powers under Section 319, Cr.P.C. passed the impugned

order summoning the revisionists.

Heard Mr. Raghuraj Kishore, learned counsel for the revisionists, Mr. Ramesh Chandra Srivastava for O.P. No.2, learned AGA and perused the

record.

It has been argued by Mr. Kishore that to exercise the powers under Section 319, Cr.P.C. there must be evidence on the record sufficient to

indicate that in all probabilities that evidence shall fasten guilt upon the accused so summoned and this parameter was not satisfied in the present

case. According to Mr. Kishore, PW1 was an interested witness and PW2 was a witness who came at the spot after the occurrence had

occurred. Therefore, the evidence available on the record was not sufficient to show that the revisionists had also committed the offences for which

they have been summoned. I do not agree with Mr. Kishore.

Even if the statement of PW2 is not taken into use the star witness of the incident i.e. PW1 had categorically stated about the participation of all the

five persons mentioned in the FIR. The participation is also testified by the medical evidence, though, this can be said that the injuries do not

commensurate with the number of the accused, but that cannot be a parameter to test the involvement of the accused when it was specifically said

by PW1 that all participated in the incident. Thus, in my view there was sufficient evidence on the record to indicate the involvement of the

revisionists and that evidence was sufficient also to satisfy the court that it could be the basis for fastening the guilt upon them.

In view of the above, I do not find any impropriety in the order passed by the trial court. The revision has no merits and it is dismissed.

However, liberty is given to the court below to consider the bail application of the revisionists, if moved, within a period of 15 days from today to

decide it expeditiously and if there is no impediment to decide it on the same day, the same day.