
Kulbul and Others Vs State of U.P.

Criminal Revision No. 2389 of 2000

Court: Allahabad High Court

Date of Decision: Oct. 23, 2000

Citation: (2001) 2 ACR 1733

Hon'ble Judges: Krishna Kumar, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Krishna Kumar, J.

This revision has been filed against the order dated 5.9.2000 passed by the learned Additional District and Sessions

Judge, Varanasi, whereby rejecting the application moved by the revisionist for adducing additional evidence.

2. Learned Counsel for the revisionist contended that there were cross cases. The case filed from the side of the revisionists resulted in acquittal of

the accused of that case, while the revisionists were convicted and sentenced and they filed the appeal before the lower appellate court, which is

pending.

3. It is clear that the Appellants could not get the injury report, etc. filed in this case before the trial court and they wanted to get those injury report

brought on record at the stage of appeal.

4. The learned lower appellate court has rightly upheld that to fill up the lacuna, additional evidence cannot be admitted at the stage of appeal. It

cannot be held that the said injury report, F.I.R., etc. were not in the knowledge of the accused-Appellants particularly when the cross cases were

also proceeding. It was for the accused-Appellants to get those injury report, F.I.R. etc. filed in the case. It was also required from the Appellant

that those injury reports be got proved by the Medical Officer.

5. Learned Counsel for the revisionists placed reliance upon State of Gujarat Vs. Mohanlal Jitmalji Porwal and Another, . In that case the prayer

for adducing additional evidence was rejected on the ground of delay. This case law is not applicable to the facts of the present case.

6. Learned Counsel for the revisionists further placed reliance upon Mohanlal Shamji Soni Vs. Union of India and another, , wherein general

proposition of law has been laid down that witnesses can be summoned or recalled at any stage. Again, there was no such prayer for summoning

or recalling the witnesses.

7. Further, the learned lower appellate court has upheld that lacuna cannot be allowed to be filled in. Definitely it was a lacuna when injury of

accused side was not got proved by filing the injury report and by summoning the Medical Officer.

8. In view of what has been indicated herein above, I am of the view that the learned lower appellate court has rightly rejected the application.

9. There is no force in the revision. It is accordingly dismissed.