

Ram Vishal alias Fauji Vs State of U.P.

Court: Allahabad High Court

Date of Decision: July 30, 2001

Acts Referred: Evidence Act, 1872 " Section 9
Penal Code, 1860 (IPC) " Section 396, 412

Citation: (2001) 2 ACR 1671

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

Bench: Single Bench

Advocate: Satish Trivedi and I.K. Chaturvedi, for the Appellant; A.G.A., for the Respondent

Judgement

S.K. Agarwal, J.

Heard learned Counsel for the applicant and learned A.G.A.

2. It is contended by learned Counsel for the applicant that, undoubtedly, this is a case of dacoity in which two persons have lost their lives.

Jewellery and cash were also looted. A prompt first information report was lodged of the incident. This applicant was arrested while he was driving

the motor cycle on 14.9.2000, i.e., nearly about a month or so after the incident. The recovered property from the motor cycle was identified on

the spot as looted property. Brother of the informant present with the police has identified the property on the spot. None of the accused persons

who were the participants were nominated in the first information report. After their arrest and recovery of the property, neither the accused

persons nor the property were put to test identification parade. Only they were identified by the brother of the informant and his sister at the time of

their arrest. The law, as is well known, does not recognise this kind of identification. As a matter of fact, the suspects and the property has got to

be identified in accordance with the provisions of Section 9, Evidence Act. Strangely enough, in such a heinous offence, despite the arrest of the

accused persons after about a month from the date of the occurrence and recovery, the police has not endeavoured to test the memory of the

witnesses by putting these accused persons to test identification parade. Earlier this conduct of the police has been severely condemned by this

Court. But it appears that nothing is capable of correcting the misdemeanour and ineptness of this law and order maintenance machinery in this

State. It is not slumber or ignorance of law but is intemperate insolence. There is none it seems who could checkmate these low rank subordinates

who are incharge of investigations. The higher echelon have lost the teeth that used to bite in the past. Why such a pass has come to exist is

certainly to be discerned. It is to be done by none else but by these very supine, spineless men in uniform, whose fume and fury is so tamed that

they and their authority have become non est. The politicians and executive in the days gone by were not using the lower rung of the policedom

for their personal gains. Now both of them have developed a fancy for it to serve their ends. They not only pressure the police but also react

vindictively when any police official exhibits defiance. The result often is seen in unwarranted transfers, suspensions on cooked up charges, etc.

They are humiliated to submission. Their superior clan watches it helplessly in some cases and in other some of them may be found sharing the

tempests wine. The degradation seems to have embitten the system so deeply that even an angel may fail to correct it. There is complete lack of

will to see, learn and correct amongst the rank and file. They learn only when any one of their own nail is uprooted. Their agony is worth-watching

then. We know that the law is violated frequently by the police with high degree of impunity. The immediate superiors do not find time sufficient

enough to examine the parchas of the case diary sent to them by these investigative officials and suggest or guide them properly or to take

measures to remedy the ills of subordinates so as to avoid acquittal of suspects or under-trials on the very first hearing for the laches which have

important legal consequences. Their agony is presence of large number of VI. Ps. and VVI. Ps., small, innocuous and powerful. They all suffer

from an unimpeachable desire to be surrounded by large posse of police officials besides other executive officials of their own department.

Movements of theirs in Caravans led by siren blowing police vans is a daily phenomenon in every city. Cities after cities have the honour of treating

a host of VI. Ps. or VVI. Ps. who cook up flimsy excuses to be there including inaugurations and marriage of kith and kins and little known people.

Be, he a minister, or any other executive, it has become a malaise and the jumbo size Cabinets, are adding to the woes since no increase in strength

of this force has occurred accordingly. We cannot lay the blame squarely on them (the police). Time has come when a separation between

investigation segment from the rest of the force under an able D.G.P. be brought about and no one should be allowed to meddle therein. He should

be made directly responsible and answerable to Chief Minister of the State. A cell manned by a senior police official of experience should be

created in each and every district for investigation purposes to correct the erratic and irresponsible behavior of Sub-Inspector in investigation. It is

high time the Government must give its thought seriously to this aspect so as not only to raise the standard of investigations in our State but also to

make it more genuine, honest and effective. It will largely restore the peoples' confidence in the force. It will help in arresting investigative

ineptness.

3. Without adverting any further to the merits of the contentions, let the applicant be enlarged on bail on his furnishing personal bond with two

sureties each in the like amount to the satisfaction of learned Chief Judicial Magistrate, Banda in case Crime No. 65 of 2000 u/s 396/412, I.P.C.,

police station Pailani, district Banda.