

(2014) 3 ACR 3250

Allahabad High Court

Case No: Crl. R. No. 2108 of 2014

Amar Singh

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision: Aug. 8, 2014

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 319, 482

Citation: (2014) 3 ACR 3250

Hon'ble Judges: Ranjana Pandya, J

Bench: Single Bench

Advocate: Dharmendra Singhal and Dinesh Kumar Yadav, Advocate for the Appellant

Judgement

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Ranjana Pandya, J.

Heard learned counsel for the revisionists and learned A.G.A.

2. This criminal revision has been preferred against the order dated 4.6.2014 passed by Additional Sessions Judge, Court No. 6, Aligarh in S.T. No. 171 of 2013 by virtue of which order and application under Section 319, Cr.P.C. was allowed and accused Amar Singh and Smt. Sheela Devi were summoned under Section 319, Cr.P.C. to face the trial.

3. Brief facts of the F.I.R. are that the person moving the application under Section 319, Cr.P.C. was the complainant and eye-witness. On 8.3.2012 at about 11:30 a.m. on the day of Holi when the complainant alongwith his brother Narendra Pal and his children and Smt. Sushma wife of Narendra Pal were present in his house, Smt. Guddo Devi wife of Manoj Kumar was also present at that time. Suddenly, Dinesh Chandra armed with country made gun, Ram Naresh armed with country made rifle, Nahar Singh armed with country made pistole, Karuwa armed with farsa and Sheela Devi was armed with danda.

All of these have been entered the house of the complainant and on the instruction of Sheela Devi they assaulted Sushma and fire was opened on Sushma which hit her in the stomach all the people assaulted Narengra Pal with Jarsa and butt of the rifle. Guddo was tried to save them but she was also beaten by them. Smt. Sushma Devi had died on account of injuries sustained.

4. The Investigating Officer did not submit charge-sheet against the accused Amar Singh and Sheela Devi. Counsel for the revisionist has argued that learned lower court has relied upon the evidence concluded by the Investigating Officer and thus, he has committed the error.

5. The statements of the witnesses recorded in court are more reliable than those examined by the Investigating Officer

6. It is settled principle of law that the revisional jurisdiction is not as wide as the appellate jurisdiction and under the revisional jurisdiction, the High Court is required to exercise its powers where there is material irregularity or manifest error of law or procedure, or there is misconception or misreading of evidence or where the court below has failed to exercise jurisdiction vested in it or has exercised the jurisdiction wrongly and perversely or where the facts admitted or proved do not disclose any offence.

7. As a broad proposition, the interference of revisional court may be justified in cases (i) where the decision is grossly erroneous (ii) where there is no compliance with the provision of law (iii) where the finding of fact affecting the decision is not based on evidence on record (iv) where the material evidence of parties has not been considered (v) where the court below has misread or mis-appreciated the evidence on record (vi) where the judicial discretion has been exercised arbitrarily or perversely.

8. In exercise of revisional jurisdiction the court may not exercise jurisdiction to reassess the evidence and reappraisal of evidence is not permissible within the revisional jurisdiction. Hon"ble the Apex Court in the case of [State of Kerala Vs. Putthumana Illath Jathavedan Namboodiri](#), has held that "the High Court while hearing revision does not work as an appellate court and will not re-appreciate the evidence, unless some glaring mistake is pointed out to show that injustice has been done".

9. In the case of [Jagannath Choudhary and Others Vs. Ramayan Singh and Another](#), Hon"ble Apex Court has held that "revisional jurisdiction is normally to be exercised only in exceptional cases where there is a glaring defect in the procedure or there is a manifest error on point of law resulting in miscarriage of justice". Similarly, in the case in [Munna Devi Vs. State of Rajasthan and anr](#), it was held by Hon"ble Apex Court that "while exercising the revisional power, the High Court has no authority to re-appreciate the evidence in the manner as the trial court and appellate courts are required to do".

10. In another case of [State of Karnataka Vs. Appa Balu Ingale and others](#), it has been held by the Hon"ble Apex Court that "generally speaking, concurrent findings of fact

arrived at by two courts below are not to be interfered with by the High Court in absence of any special circumstances or unless there is any perversity."

11. The learned counsel for the revisionists has argued that the dispute is of civil nature, hence, it calls for interference under Section 482, Cr.P.C. In support of his submission, the counsel for the revisionists have relied upon a decision rendered in [Ram Biraji Devi and Another Vs. Umesh Kumar Singh and Another, .](#)

12. In [Santosh Kumar Yadav and Others Vs. State of U.P. and Another, .](#), it has been laid down if there are ingredients of offence against the accused, charges should be framed.

13. The Hon"ble Apex Court in [P. Vijayan Vs. State of Kerala and Another, .](#), has held that whether the materials at the hands of the prosecution are sufficient or not are matters for trial. At the stage of charge, it cannot be claimed that there is no sufficient ground to proceeding against the accused and discharge is the only remedy. Whether the trial would end in conviction or acquittal is absolutely immaterial.

14. Thus, the impugned order does not suffer from any illegality, irregularity or impropriety, and the revision is liable to be dismissed at the admission stage.

15. Accordingly, the revision is dismissed.

16. In case the revisionists surrender before the court below within 15 days from today, their bail applications shall be dealt with in accordance with law laid down in Amrawati and another v. State of U.P.