
(2007) 01 AHC CK 0223
In the Allahabad High Court

Badshah alias Dal Chandra and Ram Swarup Pradhan	APPELLANT
Vs	
State of U.P.	RESPONDENT

Date of Decision : 03-01-2007

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 34

Citation : (2007) 01 AHC CK 0223

Hon'ble Judges : K.N. Ojha, J;Imtiyaz Murtaza, J

Bench : Division Bench

Judgement

1. The above appeals have been preferred by the appellants who have convicted u/s 302/34 I.P.C. in S.T. No. 477 of 2996 and sentenced to undergo life imprisonment.

2. The prosecution version as contained in the judgment of the lower Court is that on 13.4.2006, deceased Lalta Prasad, the ex-Pradhan of the village, had gone on his cycle to another village for squeezing mustard and on account of delay in his arrival, the informant accompanied by his cousin Basant Lal left in search of his father and at about 7 p.m. he saw Ram Swarup, Badshah alias Dalchand, Chokhey, and Pyare Lal hurling abuses at his father and at that time, Chokhey was said to be armed with gun, ram Swarup and Badshah armed with Banka and Pyare Lal was equipped with country made pistol. The deceased, according to prosecution case, screamed for help upon the aforesaid persons fired at his father and Badshah and Ram swarup assaulted him with Banka. The deceased slumped on the ground. The prosecution case further is that the aforesaid persons pursued the Informant and Basant Lal for some distance and thereafter, they hid themselves in the jungle and subsequently, made a detour to reach the village where they informed the family members and thereafter, after collecting co-villagers they proceeded towards the place of occurrence where the deceased was found lying dead on the ground.

3. It would transpire that in the course of trial, as many as 13 witnesses were examined out of whom Moti Ram was examined as P.W.1, Basant Lal as P.W.2,

Nand Ram as P.W.3, Dharam Pal Singh S.I. as P.W.4, Raja Ram Bhargava S.I. as P.W.5, Head Moharrir Banwari Lal as P.W. 6, Constable Surajpal Singh as P.W. 7, Mishri Singh S.I. as P.W.8, Dr. M.P.Singh as P.W. 9, constable Narpal Singh as P.W. 10, H.C. Rohan Singh as P.W.11, Chandra Bhan S.I. as P.W. 12 and Rajesh Kumar Tiwari as P.W.13.

4. The Learned Counsel for the appellants argued that the prosecution case is rendered highly improbable and in this connection, he recounted that initially the informant named Ram Swarup, Badshah, Chokhey and Pyare Lal who assaulted the deceased but subsequently, he made application intimating the Investigating officer that Pyare Lal and Chokhey Lal were not involved in the murder of his father and in their place he introduced the name of Yash Pal and Devki. He attributed Yashpal the role of firing with country made pistol. He also highlighted certain inconsistencies in the prosecution case and drew attention of the Court to the fact that the report is shown to have been lodged at 1.30 a.m. at the police station while in the inquest report, the same is said to have been lodged at 6.30 a.m on 14.4.2006. He also drew attention of the Court to the discrepant details that the informant has stated in his written report that on account of being terror stricken, he could not muster courage to go all the way to police station to lodge the report immediately after the occurrence which amply goes to show that the report was lodged at 6.30 a.m. and not at 1.30 a.m. as alleged by the prosecution and on this count he argued that in the above facts, the entire prosecution case is nothing but a coloured version with concocted story and exaggerated account mixed with falsehood. The Learned Counsel also stressed on the aspect that according to prosecution case, two persons were shown to have assaulted the deceased with Pharsa while post mortem report indicates single Pharsa injury on the person of the deceased.

5. In the above perspective, we are inclined to admit the appellants to bail.

6. Let appellants Badshah and Ram Swarup who have been convicted u/s 302/34 I.P.C. in S.T. No. 477 of 2996 and sentenced to undergo life imprisonment be enlarged on bail on their furnishing sureties and bonds to the satisfaction of the Court below.

7. In the meanwhile, realization of fine shall remain stayed.