
(2004) 10 AHC CK 0216
In the Allahabad High Court
Case No : Criminal Appeal No. 3467 of 2004

Karan Singh Yadav and Ram Kumar Yadav (In Jail) APPELLANT
Vs
State of U.P. RESPONDENT

Date of Decision : 29-10-2004

Acts Referred:

Penal Code, 1860 (IPC) — Section 307

Citation : (2004) 10 AHC CK 0216

Hon'ble Judges : R.C. Deepak, J

Bench : Single Bench

Advocate : J.S. Sengar, for the Appellant; Viresh Misra, Tejpal, S.P. Singh, Amit Misra and M.L. Shukla and A.G.A., for the Respondent

Judgement

R.C. Deepak, J.—I have heard Sri Jagdish Singh Sengar, learned counsel for the accused-appellants, Sri Viresh Misra, learned senior counsel and Sri Tejpal, learned counsels for the complainant, Sri M.L. Shukla, learned Addl. Government Advocate for the State and perused the record.

2. The facts of this case are reminiscent of the primitive age. The brute out of these accused-persons had come to fore on the night of 10th of March, 2002 at 10:45 p.m. Two sons and the husband of the informant Smt, Savitri Devi were battered mercilessly by the appellants in company with two other family members for hardly any fault of theirs", Pravesh, the first deceased in the incident, was running a P.C.O. in front of the house of the appellants. The houses of the victims and the appellants were separated by a lane not too wide. The houses were facing each other on the above-said date. There was a function in their house in connection with the daughter of accused Ram Kumar Yadav. A generator was stationed there in such a position that it was effecting badly the P.C.O. due to the electric line being off. Generator was operating for quite sometime around 10:00 p.m. electricity was restored in the locality. It was proper for the appellants to have switched off the generator, but mischievously enough it was not so done by them. When deceased Pravesh humbly told them

that now is the time for the P.C.O. to benefit from the rush of the customers the generator be switched off, the appellants, being drunk, with muscle power took it otherwise and become enraged by this conduct of the poor man they dragged him out of his P.C.O. and started hurling abuses and also beating him. Up till now they were unarmed. The victim managed his escape into his house to satisfy their wrath, but there was something more in store for the family of his. These accused persons soon thereafter armed with sarias and kattas came inside his house and pulled him and his father on to the lane probability points clearly to that the father may have later took an umbrage upon the conduct of these persons who were living in front of him, neighbours they were. Probably it forced the brute, out of them and the old man was battered with sarias so much so that he survived only by timely medical attention and providence. As many as 17 injuries of blunt object all over his person were inflicted by them. The young man Pravesh, who was in their grasp, was also fired upon and a saria was also struck on his head. Both the victims fell to the ground. The old woman - the informant, whose presence cannot be doubted in her house, was made to witness her demolition in a state of utter shock and disbelief. The curtain did not drop here when the young brother Dinesh of Pravesh after managing his freedom from the accused persons" clutches was running to police station, he was hotly pursued. He was accosted near the crossing at Chau Khambha, Kalari Turn Road by all the accused persons including the two appellants. Here at this spot the true animal instinct had made a dance. This boy Dinesh was hammered fatally with stones. He died on the spot. The two injured lying in front of their house were taken to the hospital. Pravesh was declared dead on his arrival to the hospital. According to the first information report he breathed his last on the way to hospital. The husband of the informant was examined medically and after initial medical repairs of the injuries he was referred for his life to Gwalior. This is in the nutshell the entire depiction of the scene enacted by these appellants in full public view. All the shopkeepers pulled their shutters down in horror. The houses in the vicinity were bolted from within by their inhabitants. The deadly quietude had ingrained itself in the entire locality. Both the appellants were armed with firearms, indiscriminate firing being attributed to them which was borne from the recoveries of the empty cartridges from the spot. The appellant Karan Singh is attributed with an added role of shooting Pravesh, who was lying on the ground. These large number of injuries suffered by his father (Babulal Sahu) in first incident lends full assurance to the prosecution story. This incident occurred as a sequence to the love tale of Smt. Shobha Yadav, the wife of only surviving brother Vijay of Pravesh with appellant Karan Singh a few years ago. She deserted her family leaving behind not only the husband and three minor children in the caress of the old grand parents to settle down just in front of them with Karan Singh in his house. Dinesh was assaulted in the recent past by these two appellants in the company with other and a case u/s 307 IPC was pending trial. The accused persons were pressing the family of the victim to settle the matter out of the Court. This was not accepted by the victim and the other family members. The courage shown by the victim had an adverse impact

upon these appellants and their family members. The occasion of appellant Ram Kumar Yadav's daughter Dastaun was richly encashed by the appellants in the manner discussed. The result was the loss of two young sons and a badly broken husband of the old informant. It left the old parents to mourn all their lives the loss of the two young sons. They have also to nurse and groom the legacy left behind the two dead sons. There is also past antecedent of the appellants. A fresh application along with an affidavit has been filed alleging therein that they are receiving threats of their lives from the appellants from jail. A report was made to the police in this connection, a copy of which is annexed to the affidavit.

3. The submission that a dacoity was committed in the house of the informant on the fateful night has no legs to stand. Blood clearly was recovered from outside of their house in the land and from the spot on the road a little distance away where Dinesh was murdered, spent cartridges were also recovered. Nothing giving any perception of commission of any dacoity is traceable from the site. It is bluntest ingenuity of a legal mind, No injury whatsoever to old woman/informant and the children further lend support to prosecution case and therefore the submission made in this regard is rejected.

4. In view of the above discussions, but without prejudice to the merits of the case, I do not find any merit in the prayer for bail of the accused-appellants.

5. The prayer for bail of the accused-appellants Karan Singh Yadav and Ram Kumar Yadav is hereby refused.