
(2012) 11 AHC CK 0087
In the Allahabad High Court
Case No : Criminal A. No. 2545 of 1982

Krishnpal Singh

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 05-11-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 378(3), 384(4)

Citation : (2012) 11 AHC CK 0087

Hon'ble Judges : Amreshwar Pratap Sahi, J

Final Decision : Disposed Of

Judgement

Amreshwar Pratap Sahi, J.—Heard Sri Shashwat Shukla who submits that in spite of repeated information no response has been shown on behalf of the appellant after the death of Sri D. S. Tiwari who was the original counsel. The matter was taken up earlier on 10.9.2012 when the following order was passed by me :

"This appeal was taken up in the revised call and it has been informed that Sri D. S. Tiwari, learned counsel for the appellant is dead. This information has been given by Sri Shashwat Shukla, advocate who submits that he has not yet been formally instructed to appear in the case but he would make an attempt to obtain information from the appellant provided he is available as he is the erstwhile junior of Sri D. S. Tiwari.

From the record it appears that this appeal under Section 378 (3), Cr. P.C. was entertained on behalf of the complainantappellant in terms of subsection (4) of Section 384, Cr. P.C. It appears that leave was granted to appeal. There is however nothing to indicate that any other appeal was filed by the State.

The appellant is the son of the Opposite Party No. 1 Surendra Singh, and is brother of the Opposite Party No. 2 Devendra. An information was given for lodging an F.I.R. which was entered as a case under Section 323/506 but no further action was taken by the Police. The appellant then filed a complaint and the matter thereafter proceeded charging the opposite parties of offences under

Section 307 read with Section 34, I.P.C. The trial proceeded and ended in acquittal of the opposite parties.

In view of the nature of the dispute between father and son, it would be appropriate that notices are also issued to the appellant to either instruct Sri Shukla or engage any other counsel and inform the Court as to whether the appellant's father is still alive or is dead. The status of the other opposite party Devendra Pal shall also be intimated.

The Chief Judicial Magistrate, Meerut is also directed to inquire the aforesaid status through the Police Station, Mawana and submit a report by the date fixed as to whether the opposite party Surendra Singh who was acquitted under the judgment of the court below dated 6.7.1981 is still alive or not. The Chief Judicial Magistrate shall also inform as to whether the records of the trial court are still intact and retained or not. The Office shall also put up a report as to why it did not issue any requisition for summoning the records from trial court under Rule 9 of Chapter XVIII of the Allahabad High Court Rules, 1952.

The matter shall be listed on 15th October, 2012. A copy of the order may be given to the learned A.G.A. for compliance free of charges."

2. The report of the Chief Judicial Magistrate, Meerut dated 12th October, 2012 is as follows :

3. There is no application filed by any of the heirs of the complainant Krishna Pal Singh desiring to continue this appeal under Section 378 (4), Cr. P.C. in the light of principles contained in Section 320 (4) (b), Cr. P.C. In view of this, since the sole appellant complainant is reported to have died and opposite party Surendra Singh the father of the appellant is also reported to be dead, and Devendra Singh is not traceable, the appeal abates and is consigned to records.