
(2011) 10 AHC CK 0179
In the Allahabad High Court
Case No : Criminal Revision No. 4304 of 2011

Rajni Kant and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 14-10-2011

Acts Referred:

Criminal Law (Amendment) Act, 1932 — Section 7
Criminal Procedure Code, 1973 (CrPC) — Section 311, 397, 401
Penal Code, 1860 (IPC) — Section 147, 148, 302, 307

Citation : (2012) 1 ACR 266 : (2011) 10 ADJ 293

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

Bench : Single Bench

Final Decision : Allowed

Judgement

Hon"ble S.C. Agarwal, J.—This revision u/s 397/401 Cr.P.C. is directed against the order dated 4.10.2011 passed by Additional Session Judge, Auraiya, in S.T No. 225 of 2001 (State v. Rajni Kant and Others) under Sections 147, 148, 307, 302 I.P.C. and 7 Criminal Law Amendment Act, Police Station Dibiyapur, district Auraiya, whereby application u/s 311 Cr.P.C. filed by the accused revisionists was rejected.

Heard Learned Counsel for the revisionists and learned A.G.A.

Since in a State case, there is no need to issue notice to the opposite party No. 2.

2. Application u/s 311 Cr.P.C. was filed on the ground that the licensed gun of Dev Kant brother of the revisionist Rajni Kant was alleged to have been used in the incident and the said gun was sent by the Investigating officer to Forensic Science Laboratory for examination, but the report of Forensic Science Laboratory was not on record. Therefore, a prayer was made for a direction to the prosecution to file copy of the report of Forensic Science Laboratory. The application was rejected by the trial Court on the ground that from the point of view the prosecution, the report of Forensic Science Laboratory was not an

important document and the defence may file the said report as defence evidence.

3. The reasoning adopted by the Additional Sessions Judge is quite strange. The job of the public prosecutor is not like a hang man, who is there in the Court simply to get conviction of the accused by hook or crook, A Public Prosecutor has a duty to place all the relevant facts and documents before the Court irrespective of the fact, whether any particular fact may be against the prosecution itself. If the gun of the brother of the accused was sent for examination to Forensic Science Laboratory, it was a duty of the Police and the Prosecution to file the report of the Forensic Expert in Court irrespective of the fact, whether the said report was in favour of the prosecution or the defence. A Public Prosecutor is just like a friend of the Court, who assists the Court in dispensation of justice. He is not an agent of the Police or the complainant It was the duty of the Public Prosecutor to place the report of Forensic Science Laboratory before the Court. If such report was not filed by the Prosecution, trial Court ought to have been directed for filing of said report. The trial Court also abdicated its functions in directing that the defence may file such report as part of defence evidence.

4. The Court is aware that in application 482 Cr.P.C. No. 578 of 2011 another bench of this Court directed expeditious disposal of the Sessions trial. A direction for expeditious disposal does not mean that the relevant evidence may be withheld from the Court.

5. In view of the above, the impugned order rejecting the application u/s 311 Cr.P.C. cannot be sustained. Revision is allowed. The order dated 4.10.2011, to the extent it rejected the application u/s 311 Cr.P.C., is set aside. Application u/s 311 Cr.P.C. preferred by the revisionist stands allowed.

Learned Trial Court is directed to get the report of Forensic Science Laboratory on the records of the case and thereafter it shall further proceed with the case in accordance with law.