
(2008) 03 AHC CK 0238
In the Allahabad High Court
Case No : Criminal M.T.A. No. 212 of 2008

Satish and Others

APPELLANT

Vs

Sessions Judge

RESPONDENT

Date of Decision : 31-03-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 311
Penal Code, 1860 (IPC) — Section 307, 364, 396

Citation : (2008) 2 ACR 2263

Hon'ble Judges : Barkat Ali Zaidi, J

Bench : Single Bench

Advocate : Pradeep Verma and Malti Sharma, for the Appellant; N.D. Rai, A.G.A., for the Respondent

Judgement

Barkat Ali Zaidi, J.—A case under Sections 364, 396 and 307, I.P.C. in which three persons were killed and 8 others were injured, is pending in the court of Additional Sessions Judge, Court No. 6, Bulandshahr.

2. The case is at the stage of arguments and the defence has moved an application for summoning three witnesses including two injured witnesses, and a child who had been abducted, but the Court rejected the same, whereupon a transfer application was moved before the District Judge Bulandshahr which was rejected on 11.3.2001, and the accused have come up to this Court for transfer of the case to some other Court, on the ground of rejection of their said application.

3. Heard Sri Pradeep Verma, Smt. Malti Sharma advocates for the applicants and N. D. Rai, Addl. Government Advocate, for the State.

4. It is extremely distressing that triple murder case alongwith kidnapping has been pending for more than last six years, and has not been concluded.

5. It will appear, that the case is at the stage of argument for about six months, which indicates complete loss of control over the proceedings in the case, by the

Presiding Judge.

6. The District Judge is also expected to keep watch over such cases and scrutinize the working of other Judges in the district in performance of supervisory duty.

7. There is no reason, why the arguments could not be concluded much earlier, and why judgment was not delivered soon thereafter. The Presiding Officer deserves a reprimand for a very lackadaisical approach.

8. The request of the defence for producing two injured witnesses and a kidnapped boy cannot legally be brushed aside, because approach must be to take, all such evidence, as may be available. The Court does not go to the spot to find out facts and the witnesses are the eyes and ears of the Court, if the Court comes to know that, there are some persons who can depose about the matter, the Court must suo motu summon them, because it is the duty of the Court to make all possible endeavour to discover the truth. The trial Judge should have himself found out as to who are the injured witnesses, and if they were not included in the list of witnesses, he should have summoned them u/s 311, Cr. P.C. The trial court was not, therefore, justified in rejecting the application even though, it was belated.

9. There is likely to be further delay if the trial of the case is allowed to remain in the Court where it is. It seems, therefore, proper that for the quick disposal of the case, the case should be taken by the District Judge, himself who shall take the defence evidence as desired, and shall decide the trial, as soon as possible.

10. Ordered accordingly.