
(2007) 02 AHC CK 0185
In the Allahabad High Court

Subhash Sharma and Sunil alias Nitu alias Titu	APPELLANT
Vs	
State of U.P.	RESPONDENT

Date of Decision : 08-02-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (2007) 3 ADJ 202

Hon'ble Judges : Barkat Ali Zaidi, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Barkat Ali Zaidi, J.—The only question to be determined in these proceedings u/s 482 Cr.P.C. is whether charge can be framed against an accused only on basis of the evidence of co-accused.

2. I have heard Sri V.K. Jaiswal, learned Counsel for the applicants and Sri R.D. Yadav, learned A.G.A. for the State.

3. The counsel for the applicant has referred to the case of Hari Charan Kurmi and Jogia Hajam Vs. State of Bihar, where the following observation has been made:

As we have already indicated, it has been a recognized principle of the administration of criminal law in this country for over half a century that the confession of a co-accused person cannot be treated as substantive evidence and can be pressed into service only when the court is inclined to accept other evidence and feels the necessity of seeking for an assurance in support of its conclusion deducible from the said evidence. In criminal trials, there is no scope for applying the principle of moral conviction or grave suspicion. In criminal cases where the other evidence adduced against an accused person is wholly unsatisfactory and the prosecution seeks to rely on the confession of a co-accused person, the presumption of innocence which is the basis of criminal jurisprudence assists the accused person and compels the Court to render the

verdict that the charge is not proved against him, and so, he is entitled to the benefit of doubt That is precisely what has happened in these appeals.

4. This was an appeal against conviction in which the aforesaid observations were made by the Supreme Court. What we have here is not the question of conviction but the question is whether the charge can be framed on the basis of testimony of co-accused. There is world of difference between the evidence needed for framing a charge, and required, for conviction.

5. For framing the charge, even a strong suspicion is sufficient as held by the Supreme Court in the case of State of Bihar Vs. Ramesh Singh, and Rajbir Singh Vs. State of U.P. and Another, It cannot, therefore, be said that for purposes of framing a charge, the evidence of co-accused is insufficient.

6. No further corroborative evidence is required for framing a charge. Corroborative evidence will be needed for purposes of conviction which can be obtained from diverse sources, which may emerge, during the course of Trial.

7. The impugned order dated 10.1.2007 passed by the Additional Sessions Judge, Fast Track Court No. 1, Ghaziabad in S.T. No. 1282 of 2004 (State v. Subhash and Ors.) against the accused cannot, therefore, be faulted and the application for discharge was, therefore, rightly rejected.

10. Petition allowed.