
(2000) 07 AHC CK 0019
In the Allahabad High Court
Case No : Criminal Revision No. 1493 of 1996

Suraj Prasad and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 26-07-2000

Acts Referred:

Citation : (2001) CriLJ 371 : (2001) 1 RCR(Criminal) 433

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

Bench : Single Bench

Advocate : Dharam Pal Singh and Avinash, for the Appellant; A.G.A., for the Respondent

Final Decision : Dismissed

Judgement

S.K. Agarwal, J.—Heard learned counsel for the applicants and learned A.G.A.

2. I have perused the order dated 1-8-1996 passed by Shri S.K. Saxena, 1st Additional District Judge, Kanpur Dehat on an application given by the prosecutor on behalf of the State Government for withdrawing the prosecution from the Court.

3. In my opinion the facts given in the order give an impression that the application was moved on the ground that the evidence collected by the Investigating Agency and brought before the Court along with the charge sheet was insufficient to warrant a conviction. It is further available from the order that there were two versions one brought before the Court by the informant and to support that version there is evidence of the family members of the deceased. Another version, which was also taken down during investigation and this version is that villagers had stated that the deceased was done to death, while he was moving along with some other miscreants, by them.

4. The probability, correctness and genuineness of these two versions cannot be assessed unless the case is taken up for trial and carried to its logical end. Such an application and the grounds on which it is preferred are wholly misconceived

and untenable in law. The law ordinarily does not permit such an easy course to the State Government in withdrawing any prosecution where two different versions are coming forth, one brought forth by the accused and the other set up by the prosecution side. Once the Investigating Agency has submitted a charge sheet on the conclusion of the investigation acknowledging the version brought forth by the informant more probable at least the machinery of State cannot be allowed to stall such a trial on untenable considerations. Charge-sheets are not submitted whimsically or arbitrarily in Court. From the very beginning of any investigation copies of the case diaries are prepared by the officer investigating a case. Various parchas of the case diaries are regularly sent by him to his senior officers. These superiors owe a duty to examine these parchas and made suggestion necessary for a fair, impartial and proper investigation. This is not the end. Charge-sheets, finally drawn up by investigation officer are also submitted through Superintendent of Police or Circle Officer in the least. There, therefore, is hardly any scope left for the State to make any such endeavour in the normal course of business. Such a belated effort by State clearly points towards political pressure having been brought into play from behind the curtain. This kind of a belated evaluation of evidence is not within the realm of the State after it had already filed a charge- sheet in Court. It is the obligation of the Court to decide whether the evidence so collected is sufficient to warrant any conviction. The Code provides various stages for assessing the worth of the prosecution evidence collected during investigation. Charge is always framed on the basis of this very evidence. If evidence is found not sufficient, the legal remedy of discharge is always available to an accused.

5. In the result I do not find any infirmity in the order of trial Court dated 1-8-1996 rejecting the aforesaid application.

6. This revision is accordingly dismissed.