
(2008) 04 AHC CK 0031
In the Allahabad High Court
Case No : Criminal R. No. 3008 of 2007

Vijay Kumar Dixit

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 17-04-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 319

Citation : (2008) 3 ACR 2361

Hon'ble Judges : Amar Saran, J

Bench : Single Bench

Advocate : R.B. Sahai, for the Appellant; A.G.A., for the Respondent

Judgement

Amar Saran, J.—Heard learned Counsel for the revisionist and the learned A.G.A.

2. An order dated 7.9.2007, passed by the Additional Sessions Judge/F.T.C. Court No. 5, Deoria in State v. Gauri Shankar and Ors. S.T. No. 138 of 2005 rejecting the application of the revisionist u/s 319, Cr. P.C. has been challenged by means of this application.

3. The impugned order has been passed on the ground that after two witnesses P.W. 1 Vijay Kumar Dixit and P.W. 2 Vinod Kumar Dixit were examined, the Court was only satisfied that two persons Subhash and Ashok alias Tuntun should be summoned and had passed an order to that effect on 26.8.2006. But it is observed in the said order that there is no ground for summoning the applicant, the opposite parties No. 2 to 4 Laxman, Guddan alias Priyanka and Smt. Devanti.

4. No doubt, it is open to implead additional persons as accused when some substantial evidence is forthcoming and the application u/s 319, Cr. P.C. was also partly allowed and two persons Subhash and Ashok alias Tuntun were summoned. But there is no further material available and from the mere fact that in the cross case Devanti Devi and Priyanka were shown as injured persons, hence, their presence at the time of incident could not be ruled out provides no grounds for summoning the opposite parties No. 2 to 4.

5. Learned Counsel for the revisionist, however, has drawn my attention to the statement of P.W. 4 Smt. Narayani Devi. On perusal of the said statement, I find that she has made omnibus allegations of assault by all the accused persons. She has stated that she had fainted and remained unconscious for 1-1/2 hours and even her son Vinod had fainted. I do not think that the same improves the matter any further for justifying a fresh order for summoning the opposite parties No. 2 to 4 also. If the application u/s 319, Cr. P.C. is allowed at this stage, it will require recall of all the witnesses afresh and that will result in unnecessary delay in the disposal of the trial. There is, therefore, no illegality in the impugned order.

6. The application is rejected.