

Rauf

Vs

State of Uttar Pradesh

Criminal Appeal No. 35 of 1972

(Syed M. Fazal Ali, P. N. Shinghal JJ)

03.03.1978

JUDGMENT

FAZAL ALI, J. -

In this appeal by special leave the appellant has been convicted under Section 307/34, I.P.C. There were two other accused, Deochand and Sarju who are not before us as appellants. We have heard learned Counsel for the parties and have gone through the judgments of the courts below. The short point argued by Mr. Singh was that there is no clear evidence in the case to show that the appellant had any common intention with the other accused to attempt to murder the victim, Lallu. It is, however, clearly mentioned in F.I.R. and also in the statement of the complainant that the accused met him near the corner of Gangoli Shivala and incited the accused Deochand to shoot Lallu. Thereupon the accused Deochand took out his pistol from the folds of his dhoti and fired at Lallu. Lallu in order to protect himself raised his left palm as a result of which he received injuries. Having regard to these circumstances, therefore we are unable to see any ground to distinguish the case of the appellant from that of Deochand. Being aware of the fact that his companion Deochand was armed with a pistol, the applicant incited the accused Deochand to shoot when he (Deochand) pointing to the complainant proclaimed that he was doing pairvi against the accused in a previous case. In these circumstances, the evidence unmistakably shows that the appellant shared a common intention with Deochand to attempt to kill Lallu. This appeal is concluded by finding of fact and is accordingly dismissed. The appellant who is now on bail shall surrender and serve out the remaining portion of the sentence.

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