

Mahant Amar Nath

Vs

State of Haryana and Another

Criminal Appeal No. 805 of 1981

(V.D. Tulzapurkar, V.B. Eradi JJ)

14.01.1983

ORDER

1. There is no substance in this criminal appeal which has been preferred by Mahant Amar Nath challenging the order passed by the learned Sessions Judge, Hissar under Section 319 of CrPC directing the appellant along with there others should be arraigned as accused in a case being tried before him for offences under Sections 302, 323, 324, 325, 148, 149, 341, 364 and 120-B, IPC, which has been confirmed by the High Court in revision.
2. On January 18, 1980 an incident occurred during the course of which three persons were assaulted in Sanghar-Sherishta village out of whom Munshi Ram died but Gobind Ram and Bachan Singh were injured. In respect of this offence police investigation was undertaken on the basis of the first information report lodged by Bachan Singh on January 19, 1980 and the police after recording statements of witnesses challaned eight accused persons. It appears that the police did not challan Mahant Amar Nath and three others and showed their names in Column 2 of the charge-sheet in spite of the fact that in all the statements which were recorded under Section 161, CrPC the eye-witnesses had stated that these four persons had also participated directly or indirectly in the commission of the crime as a result of a conspiracy. An application was made to the committal court by Bachan Singh under Section 319 for direction that these four persons including Mahant Amar Nath be arrayed as accused. The said application was forwarded by the committal court to the Sessions Judge while committing the case to the Sessions Court. In the Sessions Court another application was filed pressing directions under Section 319 and the learned Sessions Judge, after recording evidence of Gobind Ram one of the injured eye-witnesses who gave sufficient details about the participation in the crime by Mahant Amar Nath and others, came to the conclusion that it was necessary and proper that Mahant Amar Nath and three others should be arraigned as accused persons. He, therefore, passed the order directing that these persons should be impleaded as accused persons and be tried along with the eight accused who were being tried before him. This order was challenged in revision by Mahant Amar Nath by approaching the High Court but the High Court has confirmed the order passed by the Sessions Judge.
3. We do not see substance in any of the contentions urged by Mr. A. K. Sen, learned counsel for the appellant, in support of this appeal. Apart from the question as to whether the police statements recorded during the investigation really afford any justification to the police to show the appellant and three others (who were subsequently arraigned by the Sessions Court) in Column 2 of the charge-sheet, the learned Sessions Judge had before him the evidence of Gobind Ram who gave details about the alleged participation of Mahant Amar Nath and others which according to him was in pursuance of conspiracy hatched by all of them and the learned Sessions Judge felt that such evidence warranted the impleading of Mahant Amar Nath and three others as accused persons. It

was sought to be urged before us that the details given by Gobind Ram at the trial had not figured in his statement under Section 161 and, therefore, the Sessions Judge ought not to have given the impugned direction. But that aspect clearly falls within the domain of appreciation of evidence to be done finally at the end of the trial before pronouncing upon the guilt or otherwise of the concerned accused. It cannot be disputed that there was sufficient material before the learned Sessions Court warranting the impugned direction. Observations of this Court in *Municipal Corporation of Delhi v. Ram Kishan Rohtagi* on which counsel relies are of no avail. We see no infirmity in the order passed by the Sessions Court much less in the High Court's order in revision. The appeal is, therefore, dismissed.

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