

Puttan alias Kamal Prasad

Vs

State of U.P.

Criminal Appeal No. 304 of 1981

(Kuldip Singh, R. M. Sahai, R. C. Patnaik JJ)

19.02.1992

JUDGEMENT

KULDIP SINGH, J.:-

1. Puttan, along with Hari Om and Badshah Singh, was charged under S. 394 read with S. 397, Indian Penal Code. The trial Court convicted him of the said offences and sentenced him to undergo rigorous imprisonment for seven years. The High Court at Allahabad upheld the conviction and sentence awarded by the trial Court. Hence this appeal by Puttan.

2. According to the prosecution Hari Om along with Badshah Singh and Puttan came on a motor-cycle to the petrol pump owned by Jugal Behari Lal Gupta. They took 10 litres of petrol and 1/2 litre mobile. They did not pay the price of the petrol and instead assaulted Jugal Behari Lal Gupta. Hari Om was armed with a danda and the other two with a revolver and a knife. Hari Om snatched Rs. 1000/- from the drawer kept at the petrol pump and thereafter all the three drove away on the motor-cycle.

3. The trial of Hari Om was separated as he was detained under MISA at the relevant time. The trial Court did not believe the identification evidence in respect of Badshah Singh and acquitted him. Puttan was, however, convicted on the basis of the testimony of Jugal Behari Lal Gupta and his employee Habib.

4. In a separate trial accused Hari Om was also acquitted. Trial Court rejected the testimony of Habib as he had turned hostile. The Court came to the conclusion that it was not safe to convict Hari Om on the sole testimony of Jugal Behari Lal Gupta.

5. The alleged occurrence took place on December 4, 1973. The appellant was arrested on January 23, 1974. Identification parade was held more than six months thereafter on July 29, 1974. There is no plausible explanation regarding the inordinate delay in holding the identification parade. We are of the view that the Courts below erred in relying on the identification-evidence. Even otherwise Hari Om and Badshah Singh having been acquitted on the same evidence there is no justification to sustain the appellant's conviction.

6. We, therefore, allow the appeal, set aside the conviction and sentence of the appellant and acquit him. The appellant is on bail. His bail-bonds are discharged.

Appeal allowed.

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