

District Siwan

In the Court of Additional Sessions Judge-IVth Siwan.

Present: Ajay Kumar Srivastava,
Additional Sessions Judge-IVth
Siwan.

Dated, Siwan the 30th ~~1988~~ September, 2015
Session Trial No. 7/15

State of Bihar through Koman Yadav Prosecution

Vrs.

1. Anil Singh S/o Jai Kumar Srivastava R/o Ramgarh P.S.
Daraunda District Siwan. aged about 50 years.
 2. Indal Sah S/o late Yamuna Sah R/o Bishupura Mahuari
P.S. Maharajganj district Siwan. aged about 45 years.
 3. Shailesh Singh S/o Rampukar Singh R/o Satjora p.s. Daraunda
district Siwan. aged about 45 years.
 4. Ram Yad Koiri S/o late Ramrakcha Koiri R/o Balia p.s.
Maharajganj district Siwan. aged about 60 years.
- Accused persons

Committed to the court of Sessions by the
learned C.J.M. Siwan vide order dated 20.12.14
in G.R. case No. 1394/99 arising out of Daraunda
p.S. case No. 97/99 U/s 396 I.P.C.

For the prosecution:- *Sri Akshay Lal Yadav, A.P.P*
For the defence :- *Khursid Ansari, Advocate*

Judgment

① All the above four named accused persons have
been charged U/s 396 of I.P.C.

2. As per ~~para~~ ^{of} Fardbeyan Koman Yadav recorded ^{by} S.I.
K. Thakur office Incharge, Daraunda P.S. at the house of
Koman Yadav on 5.8.99 at 2 p.m., the prosecution case,
in brief, is that on 8.4.99 at 10.30 p.m., 15 to 20 persons
having arms in their hands came to his house and started
assaulting Lal Babu Yadav. On hulla, informant's son Gautam
Yadav came there and he was injured due to firing by gun
at him. Further, it has been stated all the dacoits were
firing and some dacoits entered the room and looted clothes,
ornaments and money costing about 25000/-. Further, Munna
Yadav was also assaulted by the dacoits. Further, the

informant injured son Gautam Yadav was taken to Mahara ganj but on way he died.

Thus informant's son was shot dead by unknown 15 to 20 dacoits.

(3) On the basis of said fardbeyan, Maharajganj Daraunda P.S. case No. 97/99 dated 5.8.99 was registered against un-known persons U/s 396 of I.P.C. and after investigation, the I.O. has submitted chargesheet against six accused persons, namely Shailesh Singh, Indal Sah, Mahanth Nat ~~xxx~~, Ramyad Koiri alias Fofia, Parsuram Sah and Anil Singh, accordingly cognizance was taken against all the chargesheeted accused persons U/s 396 of I.P.C. Thereafter all the six accused persons have been declared absconder vide order dated 13.3.04. Further, the case record of three accused persons namely Indal Sah, Ramyad Koiri and Shailesh Kumar Singh was received in this court on commitment for trial and disposal. On perusal of the order dated 20.4.15 it appears that the case of 104/15 was amalgamated to this record Sessions Trial No. ~~100/15~~, ~~7/15~~ and presently, four accused persons Ramyad Koiri, Indal Sah, Shailesh Singh and Anil Singh are facing trial.

(4) Charges were framed against all the four accused persons U/s 396 of I.P.C. to which they pleaded not guilty and claimed to be tried.

(5) The defence case is total denial of the allegation while examining the accused persons U/s 313 Cr.p.c. before the court, when incriminating material appearing in evidence was put to them, they denied and claimed to be innocent.

(6) The point for determination is whether the prosecution has been able to prove charges levelled against the accused persons beyond all possible and reasonable doubts?

§.

Findings

(7) on perusal of the case record, it appears that in

✓ this case altogether four witnesses have been examined. As per evidence of informant, Koman Yadav, it appears that he has supported the prosecution case and stated in his evidence that the occurrence took place at 8 to 9 p.m. 16 years ago while he was sleeping, 15 to 20 persons having ~~arms~~ ^{arms} came there and started assaulting his nephew Lalbabu Yadav. At this his son Gautam Yadav came there and he was shoot dead. Other dacoit also fired and they ~~had~~ ^{had} taken cloths and ornaments costing Rs. 25000/- . He has also stated that he had given his thumb impressions on fardbeyan. During cross examination, he has stated at para 7 that due to dark night, he had not identified any dacoit and he had also not identified any accused persons present in Court, at para 16, he has stated that what statement has been recorded by Sub Inspector ~~he has~~ not known. P.W.4 Munna Kumar Yadav has stated in his evidence that the occurrence took place in the year 1999, when the daccity took place in the house of Koman Yadav and he had gone there and saw the dead body of Gautam Yadav who had got bullet injury. The dacoits had looted ornaments and clothes. He had also not identified the dacoits as he was not present at the time of occurrence. So far as other witnesses P.W.1 Ramanand Yadav, P.W.2 Jairam Singh are concerned P.W.1, Rama Nand Yadav has been declared hostile by the prosecution and P.W.2 Jaïram Singh in his evidence clearly stated that he had not identified the dacoits which took place in the house of Koman Yadav, he had identified Anil Singh as he was from his village.


8. The learned A.P.P. submitted that the informant of this case although supported the occurrence but he had not identified the accused persons, so proper order should be passed. The learned defence lawyer submitted that the witnesses have not identified the accused persons so the accused persons should be acquitted.

GAH
L


9. On analysing the evidence available on record, I find that P.W.3 informant Koman Yadav has supported the occurrence of dacoity but he had not identified the accused persons.

L

10. Considering all the facts & circumstances and particularly in view of the evidence available on record, I find that the prosecution has failed to prove charges levelled against accused persons beyond all possible and reasonable doubts, accordingly, benefit of doubt is given to the accused persons and they are acquitted. ^{Further} They are also discharged from the liabilities of their bail bonds.


(Ajay Kumar Srivastav)
Addl. Sessions Judge-IVth Siwan.

Dictated & corrected by me.


(A.K. Srivastava)
Addl. Sessions Judge-IVth, Siwan.

