

Uma Shankar vs State Of U.P. on 22 March, 1979

Equivalent citations: AIR1979SC1456, 1979CRILJ1119, 1979SUPP(1)SCC407, 1979(11)UJ779(SC), AIR 1979 SUPREME COURT 1456, 1979 UJ (SC) 779, 1979 ALLCRIR 368, 1979 SCC(CRI) 525, 1979 CRILR(SC&MP) 609, (1979) ALLCRIC 368, 1979 SRILJ 163

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Bench: A.D. Koshal, S. Murtaza Fazal Ali

JUDGMENT

S. Murtaza Fazal Ali, J.

1. This appeal by special leave is directed against the judgment of the Allahabad High Court (Lucknow Bench) by which the appellant has been convicted under Section 302/34 and sentenced to imprisonment for life as also under Section 307/34 and sentenced to five years' R. I. A detailed narrative of the prosecution story has been given in the judgment of the High Court and the Sessions Judge and it is not necessary for us to repeat it all over again.

2. Appearing for the appellant Mr. Goswami has raised a short point before us. He submitted that the evidence clearly shows that there was animus between the complainant and the appellant and the appellant was falsely implicated due to enmity. It appears that in the FIR it was categorically stated that Umasharskar alongwith Ram Lakhan and Deena Nath armed with Kanta reached the place of occurrence and all of them said that the deceased should be killed. Yet this allegation has been given a complete go by in the evidence of FW 1 who has attributed the overt act of incitement to Uma Shankar alone and not to the others. PW 1 clearly admitted in his evidence that there was enmity between the parties and in that connection the witness deposed as follows :

The case under Section 307 was decided on 19-4-69 and we were acquitted. In that 307 IPC case accused persons named Umashankar and Pikarma present in Court and Satti Din and Lal Bihari were prosecution witnesses. Against all these four witnesses a case regarding giving of false evidence was started. There accused persons were inimical to my nephew Padum Prasad and myself.

It was argued by Mr. Goswami and in the background of this enmity, it appears, that Uma Shanker has been falsely implicated. There is no reason by the prosecution for the vital change of the act attributed to Uma Shanker when the case was put forward in the Court, as compared to the one which was mentioned at the first instance in the FIR No other act of participation in the crime hat been attributed to the appellant

Uma Shankar at all. There appears to be a very reasonable possibility of the appellant having been implicated due to enmity and given the assignment of incitement to seek personal vendetta. In the circumstances, therefore, we feel that the appellant is entitled to the benefit of the doubt. For these reasons, therefore, the appeal is allowed, the conviction and sentence passed on the appellant is set aside and he is acquitted of the charges framed against him. The appellant, now, shall be discharged from his bail bonds.