

Prosecution has to prove its case beyond reasonable doubt, Conviction under 307 Set Aside: Allahabad High Court

Sushil Phari

...Appellant

Versus

State of UP

...Respondent

Case Number: – CRIMINAL APPEAL No. – 19 of 2000

Citation: 2023:AHC-LK0:79589

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Facts:

- Incident happened on 09/12/1997 where appellant allegedly fired at SHO while attempting robbery. SHO sustained injuries. Appellant arrested and countrymade pistol and cartridges recovered. Chargesheet filed u/s 307 IPC. Trial court convicted appellant.

Arguments: Appellant:

- Falsely implicated, ingredients of Section 307 not made out, caught from bus while travelling, not involved in incident

Prosecution:

- Testimony of injured SHO supports prosecution case and corroborated by doctor, proves appellant fired and caused injuries with intention to kill

Court's Observations and Conclusions:

- Injury report shows lacerated wound on forehead but doctor unable to assign definite cause or whether it's firearm injury
- Prosecution failed to scientifically prove injury was due to firearm
- No blood stained clothes or recovery of blood stained soil despite injured bleeding for 3 hours
- Contradictory statements by prosecution witnesses regarding appellant's presence
- Non-examination of one recovery witness and contradiction regarding recovery memo signing casts doubt
- Prosecution failed to prove essential ingredients of Section 307 IPC beyond reasonable doubt
- Conviction set aside, appeal allowed, appellant set free

Referred Laws and Sections:

- Section 307 IPC: Attempt to murder
- Section 313 CrPC: Examination of accused
- Section 39 Arms Act: Previous sanction of DM for certain prosecutions

So in summary, prosecution failed to establish essential ingredients of Section 307 IPC against the appellant beyond reasonable doubt. Conviction and sentenced passed by Trial Court set aside. Appeal allowed and appellant acquitted.