

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.310 OF 2020
(@ out of SLP (Cr1.) No. 200/2020)

MUNKAD ALI

Petitioner(s)

VERSUS

AITEEQ @ ATIF & ORS.

Respondent(s)

O R D E R

Leave granted.

This appeal challenges the order dated 27-11-2019 passed by the High Court of Judicature at Allahabad in CRMBA No. 49363/2019.

Pursuant to the reporting made by the appellant, FIR No.0635 was lodged with P.S. Nauchandi, District Meerut for offences punishable under Sections 147, 148, 149, 307, 302, 506 and 34.

The basic allegations made in the FIR were as under:

"It is submitted that today dated 07.08.2018 my sons Shoeb and Danish had gone to the ground of Chaudhary Charan Singh University to play Cricket and there an altercation took place in between his sons and Mujeeb s/o Shaadat Ali resident of Sector 10, Shastri Nagar but the matter was pacified through the colleagues. There had been some money dispute with them and in the past also an altercation took place. When his sons came back to home after playing the Cricket then Mujeeb had phoned to Shoeb, abused him in filthy language and threatened to kill him. Thereafter Shoeb narrated the entire story to me. Then I pacified him saying that it is not good and alongwith my sons Shoeb and Danish and cousin Anees came to Ladies Park, Sector 10, Shastri Nagar, at 7 P.M. for compromise the matter, then he found Shadaat s/o Liyaqat, Mujeeb, Hifzurrehman, Ateeq, Shahbaz already there. On reaching there, aforesaid all started abusing in dirty

language and on requesting them, they all with the common intention fired and assaulted on us with their arms having with them, in firing my sons Danish and Shoeb sustained the fire arm injuries and then hearing the fire shots the people from neighbor gathered there, then these people ran away. I took my sons to Lokpriya Hospital and they referred Danish to Meerut College, Meerut due to his serious condition however Shoeb was admitted there by them. We took the Danish to Medical College where he was declared dead and Shoeb is being treated in Lokpriya Hospital. I have come here for loding the report."

Out of five accused named in the FIR, two accused namely, the respondents herein preferred CRMBA No. 49363/2019 which came to be granted by the High Court on the ground that the use of the fire arm was ascribed to one Mujeeb and insofar as other accused were concerned, only general role was attributed to them.

The medical record shows that the deceased Danish suffered four fire arm injuries; out of which two were entry wounds and other two were exit wounds corresponding to those two entry wounds; While the injured person Shoeb also suffered injuries including two fire arm injuries. At this stage, the record is thus clear that atleast four shot were fired.

Considering the facts and circumstances on record, in our view, High Court ought not to have released the respondent-accused on bail when they had completed only 5 months of custody and when the offence alleged against them are under Sections 147,148, 149 read with 302 and 307 IPC.

We therefore, allow this appeal, set aside the order passed by the High Court and direct as under:

(a) The respondent-accused shall surrender within four weeks before the concerned Trial Court which shall remand the accused to custody to be tried in connection with offence arising out of FIR No.0635.

We have been given to understand that the charges have already been framed against the accused.

(b) In case the respondent accused fail to surrender within the time stipulated, the bail bonds furnished by them shall stand forfeited and they shall be arrested by the concerned Police Station immediately and taken into custody.

A copy of this order shall be communicated to the concerned Police Station and the Jurisdictional Chief Magistrate for compliance.

Since the charges have been framed, we direct the Trial Court to conclude the proceedings as early as possible and preferably within one year from receipt of the order.

The appeal is allowed in aforesaid terms.

.....J.
(UDAY UMESH LALIT)

.....J.
(ANIRUDDHA BOSE)

New Delhi
February 17,2020.

