

(2011) 11 UK CK 0098
In the Uttarakhand High Court
Case No : Criminal Appeal No. 174 of 2011

Adesh Kumar Yadav

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 25-11-2011

Acts Referred:

Arms Act, 1959 — Section 25
Penal Code, 1860 (IPC) — Section 302, 34

Citation : (2011) 11 UK CK 0098

Hon'ble Judges : Barin Ghosh, C.J; Umesh Chandra Dhyani, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Barin Ghosh, C.J.—The present appeal has been preferred against the judgment and order dated 18th December, 2010 passed by Additional Sessions Judge, First Fast Track Court, Hardwar in Sessions Trial No. 317 of 1996, whereby and under, of the five accused persons, one, namely, Jungi alias Ram Singh Yadav has been convicted u/s 302 of I.P.C. and also u/s 25 of the Arms Act and the remaining four accused persons, who were charged to have committed offence punishable u/s 302 read with Section 34 of I.P.C. have been acquitted. Against acquittal of those four accused persons, the State preferred an appeal alongwith leave to appeal and condonation of delay in preferring the appeal. Application for condonation of delay in preferring the said appeal as well as leave to prefer the appeal was accorded, whereupon the Government appeal was heard by a Division Bench of this Court who, by its order dated 28th April, 2011, dismissed the said appeal. The present appeal is by the victim, which is barred by limitation.

2. Since no objection to the application for condonation of delay in preferring the appeal has been filed and considering the averments made in the application made therefor, we allow the application but, at the same time, we dismiss the appeal on the ground that a similar appeal has been dismissed by a Division Bench of this Court upholding examination of evidence made by the trial court,

which established that there was no common intention or common object on the part of the respondents herein.