

(1951) 05 AHC CK 0013
In the Allahabad High Court
Case No : Criminal Misc. No. 1135 of 1951

Ajudhia Prasad

APPELLANT

Vs

Chhotey Lal and Others

RESPONDENT

Date of Decision : 15-05-1951

Acts Referred:

Constitution of India, 1950 — Article 134

Citation : AIR 1952 All 85

Hon'ble Judges : Malik, C.J;C.B. Agarwala, J

Bench : Division Bench

Advocate : P.M. Varma, for the Appellant;

Final Decision : Dismissed

Judgement

1. One Govind Singh was murdered under circumstances mentioned in the judgment of the learned Ses. J. There was an appeal in this Court & there was a difference of opinion between the two learned Judges constituting the Bench. The case was then referred to a third learned Judge &, on the return of the finding, there was again a difference of opinion as to the sentence. The case had to go back again to the same learned Judge who was of the opinion that the opposite party should be convicted under S. 323, Penal Code, & given the maximum punishment of one year's rigorous imprisonment. It is against this order that the father of Govind Singh has made this application for leave to appeal to the Supreme Court.

2. In our view, it is not open to a third party, even if he be the father of the deceased, to move an application for leave to appeal to the Supreme Court. The first information report was lodged by the Chaukidar of the village & the case was sent up by the police & was not started on a private complaint. In a police case, the State is the complainant & not a private individual. If the case ends in an acquittal, the private individual to whom injury was caused by the accused may apply in revision to this Court with the object of drawing the attention of this Court that the case calls for interference. But he has no right of appeal. A

crime is an offence against the State & except in certain cases no individual can claim the right to have the offender punished as a criminal. The punishment ordered to be inflicted on an offender is in the nature of a relief awarded to the State for the wrong done to it & not as recompense to a private individual for the injury caused to him. The latter has his remedy if any in tort. If the State is satisfied with, an order of a Court hearing a criminal case, no private individual can claim a rehearing as of right. The provisions of Art. 134 of the Constitution of India are intended to be availed of by an accused, who has been convicted or by the State & not by a third person. The applicant has no "locus standi" to make this application.

3. We, therefore, dismiss this application.