
(2020) 09 UK CK 0007
In the Uttarakhand High Court
Case No : Criminal Revision No. 240 Of 2011

Mahboob

APPELLANT

Vs

State Of Uttarakhand Through Home Secretary

RESPONDENT

Date of Decision : 04-09-2020

Acts Referred:

Indian Penal Code, 1860 — Section 379, 411

Citation : (2020) 09 UK CK 0007

Hon'ble Judges : N.S. Dhanik, J

Bench : Single Bench

Advocate : Pankaj Miglani, Atul Kumar Sah, Ranjan Ghildiyal

Final Decision : Dismissed

Judgement

N.S. Dhanik, J

1. This criminal revision is preferred against the judgment and order dated 01.09.2011 passed by Additional Sessions Judge, Haridwar/IIInd FTC Haridwar District Haridwar in Appeal No. 16 of 2011, whereby the learned Sessions Judge confirmed the order dated 21.12.2010 passed by Fourth Additional Civil Judge (J.D)/J.M., Haridwar in Criminal Case No. 541 of 2010. By the said judgment and order dated 21.12.2010, the revisionist has been convicted for the offence punishable under Section 411 IPC and was sentenced to undergo six months imprisonment along with a fine of Rs. 3,000/-.

2. Brief facts of the case are that, on 14.01.2003, an FIR was lodged by the informant alleging therein that on 13/14.01.2003, the persons of the Intelligence Department namely Devendra Singh, Surendra Kumar, Madanlal and Shiv Om Sharma were sitting at Material Gate, Watch Tower-5. At about 4 A.M. to 6 A.M., three persons were seen at the Railway Line along with some goods and the moment they ran to catch them, they threw the said goods in the bushes and started running from there. During this incident, one person namely Mehboob, the present revisionist, fell on the stone and when he sustained injuries, the

above mentioned officers of the Intelligence Department caught him. The other co-accused fled away from the spot. Along with the present revisionist, the officers searched the location wherein they got the material, which they threw in the bushes. The said material was weighed and its weight came to 152 Kg.

3. After investigation, the Investigating Officer filed charge sheet against the revisionist under Sections 379 and 411 IPC. Based on the same, charges were framed and the Court below has convicted the appellant for the offence punishable under Section 411 IPC.

4. Learned counsel for the revisionist does not press this revision on merits. He submits his arguments only on the quantum of sentence. Since the revisionist's counsel does not challenge the conviction, this Court need not go into the merits of the case and, accordingly, the conviction of the revisionist, as ordered under Section 411 IPC, is maintained.

5. Learned counsel for the revisionist submits that the revisionist is a poor person and he is the only bread earner of his family. On instructions, he submits that the revisionist has already served around two and a half months in the jail and prays that the substantive sentence, awarded to the revisionist, may be reduced to the period already undergone by him.

6. Learned State Counsel submitted that there is no illegality in the impugned judgment of the trial Court and the same has also been affirmed by the First Appellate Court. It is also submitted that there is neither any occasion to interfere with the sentence awarded to the revisionist, nor is any sympathy called for in the instant case.

7. Since the revisionist has already served around two and a half months imprisonment, and also considering the nature of the case, I am of the considered view that this much of sentence, as served by the revisionist, is sufficient to serve the purpose.

8. Considering the submissions of learned counsel for the parties and the fact that the revisionist is a poor person, this Court is of the view that the ends of justice would be sub-served, if the jail sentence of the revisionist is reduced to the period already undergone by him. Consequently, the revision is dismissed on merits. However, it is partly allowed on the quantum of sentence and the sentence is reduced to the period already undergone by the revisionist. The sentence of fine is enhanced from 3,000/- to Rs. 10,000/-. The fine already deposited by the revisionist shall be adjusted in the enhanced amount of fine, as directed by this Court hereinabove. The enhanced amount of fine shall be deposited before the trial Court. If the revisionist fails to deposit the enhanced amount of fine within two months from today, he shall serve six months additional imprisonment. The impugned judgment and order stands modified to the extent indicated above.

9. Since the matter is finally disposed of, the order dated 19.08.2020, whereby

NBW was issued against the revisionist, has got merged in the final order and as such the Recall Application No. 3049 of 2020 is dismissed as infructuous.

10. Let a copy of this judgment and order along with the LCR be sent back to the Court concerned for doing the needful at the earliest.