
(2011) 08 UK CK 0109

In the Uttarakhand High Court

Case No : Criminal Revision No. 43 of 2003

Naren Mandal and Others

APPELLANT

Vs

State of Uttaranchal

RESPONDENT

Date of Decision : 19-08-2011

Acts Referred:

Arms Act, 1959 — Section 25
Wild Life (Protection) Act, 1972 — Section 51

Citation : (2011) 08 UK CK 0109

Hon'ble Judges : Servesh Kumar Gupta, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Servesh Kumar Gupta, J.—Heard Smt. Pushpa Joshi, Advocate for the revisionist and Sri P.S. Bohra, Brief Holder for the State/Respondent.

2. This revision has been directed against the judgment and order of the learned Sessions Judge dated 11.3.2003 passed in criminal appeal No. 26 of 2002 as well as in 31 of 2002, titled as Ram Giri Goswami & five others v. State, Panchanan Sarkar & two others v. State, respectively. In these appeals, the order of learned Additional Chief Judicial Magistrate, Kashipur dated 9.10.2002 was under challenge and the learned Sessions Judge hearing the appeal on merits, found the Appellant/accused Ram Giri Goswami not guilty for the offence of Section 25 of the Arms Act, while all the accused/Appellants were found guilty for the offence of Section 51 of the Wild Life Protection Act. They were sentenced to undergo three years" R.I. by the trial court which was upheld by the appellate court. In addition, they were also sentenced to pay Rs. 5,000/- fine, in default of fine, they were further directed to undergo four months" R.I., which remained upheld by the appellate court.

3. This Court has heard the learned Counsel for the revisionists and learned brief holder for the State. Without going to the merits of the judgments and orders of the courts below, learned Counsel for the revisionists prayed mercy of this Court

on the quantum of sentence with the facts that the revisionists are the very poor persons and they have already been in jail for 22 months and 10 days. Taking note of the nature of the offences and the sentence, which has already been undergone by the revisionists, it has been prayed that the sentence may be reduced, keeping intact the amount of fine which has been imposed upon the revisionists.

4. I have gone through the facts of the case. Not much amount of weight of the elephant ivories was recovered from the possession of the accused/revisionists. Even one of the forest officials (witness) has stated that the recovered ivories from the possession of the revisionists may also be a bone and the true nature of the same can be made sure only by testing the same in the laboratory. In these circumstances, I think the justice would be met if the sentence of jail is reduced from three years to that of 22 months and 10 days, which has already been undergone by the revisionists, keeping intact the amount of fine which has been imposed upon them.

5. Revision is partly allowed. The sentence of jail is modified accordingly. All the revisionists are directed to pay the fine (if they have not paid earlier) within two months from the date of receiving the certified copy of the judgment in the court below. If they fail to deposit the fine, as directed herein, they will serve out the sentence as ordered by the trial court in default of payment of fine.