

(2010) 06 UK CK 0183
In the Uttarakhand High Court

Padma Bahadur (In Jail)

APPELLANT

Vs

State of Uttarakhand

RESPONDENT

Date of Decision : 30-06-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313
Wild Life (Protection) Act, 1972 — Section 51, 52, 9

Citation : (2010) 06 UK CK 0183

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Judgement

Prafulla C. Pant, J.—This revision is directed against the judgment and order dated 04.03.2010, passed by Sessions Judge, Rudraprayag, in Criminal Appeal No. 08 of 2009, whereby conviction and sentence recorded by the trial court (Chief Judicial Magistrate, Rudraprayag), in Criminal Case No. 222 of 2009, relating to offence punishable u/s 9/51 of Wild Life (Protection) Act, 1972, has been affirmed.

2. Heard learned Counsel for the parties and perused the record.

3. Prosecution story, in brief, is that on 16.02.2009, at about 11:00 A.M., complainant Kasbi Lal, Assistant Wild Life Warden along with other forest officials was on patrol duty. He got information that in Forest Range No. 6, a male "HIMALAYAN THAR" is said to have been killed, and is being cooked by accused Padma Bahadur. On this, the team of forest officials proceeded towards the residence of Padma Bahadur, where he admitted having killed and cooked the "HIMALAYAN THAR". Some of the pieces of bones and pieces of skins were found in his house with two empty cartridges of .12 bore. After the recovery, the accused/revisionist Padma Bahadur was arrested by the forest officials, and he was challaned in respect of offence punishable u/s 9/51 read with Section 52 of the Wild Life (Protection) Act, 1972. The Chief Judicial Magistrate, Rudraprayag, before whom the criminal complaint was filed, examined the prosecution witnesses, namely P.W. 1 Kasbi Lal, P.W. 2 Jot Singh Mahipal, P.W. 3 Jaipal Singh

Bisht and P.W. 4 Dhani Lal, all forest officials. The prosecution also produced the documentary evidence of the spot. The evidence was put to the accused u/s 313 of Cr.P.C. No evidence in defence was adduced. The trial court after considering the evidence on record found the accused/revisionist Padma Bahadur guilty of charge of offence punishable u/s 9/51 of the aforesaid Act, and sentenced him to rigorous imprisonment for a period of three years, and also directed to pay fine of Rs. 10,000/-. The other co-accused Dhan Singh, Mahabir Singh and Chandra Prakash were acquitted. Aggrieved by order dated 21.10.2009, passed by the Chief Judicial Magistrate, Rudraprayag, in Criminal Case No. 222 of 2009, the convict preferred Criminal Appeal No. 8 of 2009. The appellate court (Sessions Judge, Rudraprayag), after hearing the parties, dismissed the appeal. Hence, this revision.

4. Learned Counsel for the revisionist submitted that the arguments on behalf of the revisionist are confined only on the point of sentence. The accused/revisionist Padma Bahadur is in jail for last more than 16 months. It is submitted on behalf of the accused/revisionist that he is a poor person and there is none to look after his family. Considering the period already spent by him in jail, and after going through the papers on record, in the facts and circumstances of the case, this Court is of the view that it would meet the ends of justice if the sentence awarded to the revisionist is reduced to the period already undergone.

5. For the reasons as discussed above, the conviction of the revisionist Padma Bahadur u/s 9/51 of the Wild Life (Protection) Act, 1972, recorded by the courts below, is affirmed. However, he is sentenced to rigorous imprisonment for a period of one year and directed to pay fine of Rs. 10,000/-. In default of payment of fine he shall be liable to undergo three months rigorous imprisonment (which he has already undergone). Since, the revisionist had already been in jail for more than 16 months from the date of commencement of trial, he shall be set at liberty forthwith, if not required in connection with any other case. With the above modification in sentence, the revision stands disposed of. The lower court record be sent back along with the copy of this judgment for its compliance.