

(2010) 08 UK CK 0117
In the Uttarakhand High Court

Ravindra Singh Bisht @ Dheeru @ Dheerendra Singh,
Jitendra Bisht @ Pappu, Mohan Lal Verma and Kailash Negi @
Kukka

APPELLANT

Vs

The State

RESPONDENT

Date of Decision : 02-08-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 207, 313, 343, 374(2)
Evidence Act, 1872 — Section 134
Juvenile Justice (Care and Protection of Children) Act, 2000 — Section 2, 20, 7A
Juvenile Justice (Care and Protection of Children) Rules, 2007 — Rule 12, 98
Penal Code, 1860 (IPC) — Section 147, 149, 304, 323, 354

Citation : (2011) 1 NCC 13 : (2010) 2 UD 358

Hon'ble Judges : Dharam Veer, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Dharam Veer, J.—This criminal appeal, preferred u/s 374(2) of The Code of Criminal Procedure, 1973 (hereinafter to be referred as Cr.P.C.), is directed against the judgment and order dated 22/23.07.1999 passed by the Sessions Judge, US Nagar, Rudrapur in Sessions Trial No. 4 of 1998, State v. Ravindra Singh Bisht @ Dheeru @ Dhirendra Singh and Ors., whereby the learned Sessions Judge has convicted the appellants/accused for the offence punishable u/s 304 of The Indian Penal Code, 1860 (hereinafter to be referred as I.P.C.) and sentenced each of them to ten years' rigorous imprisonment with fine of Rs. 3,000/-each. Each of the appellant/accused was further convicted u/s 354 IPC and was sentenced to one year's R.I. each; each of them was further convicted u/s 147 IPC and was sentenced to one year's R.I. each; each of them was further convicted u/s 323/149 IPC and was sentenced to six months' R.I. All the sentences were directed to run concurrently. It was further directed that in case of default of payment of fine, the defaulter shall undergo one year's additional imprisonment.

2. I have heard learned Counsel for the parties and perused the entire material available on record.

3. In brief, the prosecution case is that complainant (P.W.1) Durga Singh lodged an FIR stating therein that on 12.3.1998 at about 9:30 PM, when Holika Dahan program was continuing in Durga Temple of Bharatpuri, then the appellants/accused along with co-accused Anil Sundariyal had come on the place of occurrence and started interrupting in the process of distribution of Prasad and also outraged the modesty of the girl, who was disturbing the Prasad, by colouring her face. Kundan Singh, brother of complainant, who was the guardian of the Durga Temple Committee, asked the appellants/accused and co-accused not to do so, on which the accused started beating Kundan Singh with Lathis, Dandas, fists & kicks, bricks and stones. The complainant Durga Singh, Lilamber and other persons, also sustained injuries when they intervened. Due to the injuries caused by the appellants/accused and co-accused Anil Sundariyal, Kundan Singh became unconscious and he fallen down on the road. Thereafter, injured Kundan Singh was taken to the Government Hospital, Ramanagar, where the doctors declared him dead. With the same averments, the FIR Ex.Ka-1 was lodged by P.W.1 Durga Singh on 12.3.1998 at 10:35 PM at P.S. Ramnagar, Distt. Nainital. On the basis of the FIR (Ex.Ka-1), Head Constable Rohitash Kumar (PW8) prepared the Chik FIR of the case, i.e. Ex.Ka-11. In the same process, entry was also made by him in the G.D., the copy of which is Ex.Ka-12. Investigation of this case was entrusted to P.W.10 S.I. Nanhe Lal. Complainant Durga Singh was medically examined on 12.3.98 at 11:15 PM by PW5 Dr. K.C. Joshi, who after the examination, prepared injury report Ex.Ka-2. Injured Lilamber Pandey was also examined on the same day at 11:07 PM by the same medical officer, who after the examination, prepared injury report Ex.Ka-3. Inquest report of Kundan Singh (deceased) was prepared on 13.3.1998 by SI Atar Singh (PW7), which is Ex.Ka-5. Along with the inquest report, Police Form No. 33 Ex.Ka-6, letter to CMS Ex.Ka-7, sketch of dead body Ex.Ka-8, Police Form No. 13 Ex.Ka-9 and specimen of seal Ex.Ka-10 were prepared. Post-mortem of the dead body of Kundan Singh was conducted on 13.3.1998 at 12:30 PM by PW6 Dr. Surendra Singh, who prepared the postmortem report Ex.Ka-4. During the course of investigation, the I.O. inspected the place of occurrence and prepared the site plan Ex.Ka-13. The I.O. also took in his possession a broken brick and a piece of stone from the place of occurrence and prepared Fard Ex.Ka-14. The Investigating Officer during the course of investigation, recorded the statements of the witnesses and on completing the investigation, he filed the charge sheet Ex.Ka-15.

4. After receiving the charge sheet, learned Addl. CJM, Kashipur committed the case to the court of Sessions on 7.10.1998 after giving necessary copies to the accused persons as required u/s 207 Cr.P.C.

5. On 31.10.1998, learned Sessions Judge, US Nagar, Rudrapur has framed the charge against the appellants/accused u/s 147/354/304 IPC. The charges were

read over and explained to appellants/accused, who pleaded not guilty and claimed to be tried. On 14.6.1999, further charge was framed against the appellants/accused u/s 323 r/w Section 149 IPC. This charge was also read over and explained to them, to which also they pleaded not guilty and claimed to be tried.

6. To prove its case, the prosecution has examined P.W.1 Durga Singh, complainant, P.W.2 Km. Kavita, P.W.3 Damodar Prasad, Priest of Durga Temple, PW4 PS Ghughtiyal, witness of inquest report, PW5 Dr. KC Joshi, who medically examined the injured, PW6 Dr. Suresh Singh, who conducted the post-mortem, PW7 H.C. Rohtash Kumar, who prepared CHIK FIR and made entry in GD, PW9 Lilamber Pandey, injured witness and PW10 SI Nanhe Lal, IO of the case.

7. After that the statements of the appellants/accused were recorded u/s 313 Cr.P.C. The oral and documentary evidence was put to each of them in question form, who denied the allegations made against them and stated that they have been falsely implicated. However, they did not produce any oral or documentary evidence in defence.

8. After hearing learned Counsel for the parties and appreciating the entire material available on record, the learned Sessions Judge, US Nagar, Rudraupr vide judgment and order dated 22/23.7.99 has convicted and sentenced the appellants/accused as discussed above. Feeling aggrieved by the aforesaid judgment and order, the accused/appellants have preferred the present appeal.

9. Before further discussion, it is pertinent to mention here the injury report (Ex.Ka-2) of the injured Durga Singh who was medically examined on 12.3.1998 at 11:15 PM by P.W.5 Dr. KC Joshi, which is as under: -

1. A 2.9 x 2.5 cm red abraded area present on inner side of upper lip. Upper lip has got swelling.
2. A 4.2 x 3.7 cm reddish contusion present over mastoid process behind left ear.
3. A 5.3 x 3.6 cm reddish abrasion present on front of left leg just below knee joint.

Opinion-All injuries are simple and caused by blunt and hard object. Duration fresh.

It is also pertinent to mention here the injury report (Ex.Ka-3) of the injured Lilamber Pandey (PW9) who was medically examined on 12.3.1998 at 11:07 PM by P.W.5 Dr. KC Joshi, which is as under:

1. A 3.2 x 0.4 cm lacerated wound with fresh bleeding present on occipital scalp.

No other external injury mark seen.

Opinion- Simple lacerated wound caused by blunt and hard object. Duration fresh.

10. To prove the above-said injury reports, the prosecution has examined P.W.5

Dr. KC Joshi who has proved the injury reports Ex.Ka-2 and Ex.Ka-3 of Durga Singh and Nelamber Pandey respectively, prepared by him. He further stated that the injuries on the person of injured persons could be caused by some hard and blunt object and could also be caused by pelting bricks or stones and those injuries could have been caused on 12.3.1998 at about 9:30 PM.

11. It is also pertinent to mention the ante-mortem injuries recorded on the person of deceased as recorded in the post-mortem report Ex.Ka-4, whose postmortem was conducted on 13.3.1998 at 12:30 PM, which are as follows:

1. Abrasion 5 cm x 3 cm present front of lower 1/3rd of right leg.
2. Abrasion 4 cm x 3 cm present just below left knee
3. Abrasion with contusion 5 cm x 3 cm present just above right eyebrow
4. Traumatic swelling 12 cm x 10 cm present in front of head.

Cause of death was assigned "COMA as a result of ante-mortem head injury".

12. To prove the post-mortem report, the prosecution has examined PW6 Dr. Surendra Singh, who has proved the postmortem report Ex.Ka-4 prepared by him.

13. To further prove its case, the prosecution has examined PW1 Durga Singh who stated that on 12.3.1998 at about 10:35 PM he had lodged one report. This incident took place on that day at about 9:30 PM. On that day, Holika Dahan program was continuing. Kundan Singh Manral, his elder brother, was the member of this Committee. The program had already been completed by 7:30 PM. At the time of incident, distribution of Prasad was being done and his brother Kundan Singh Manral was doing the said work. The appellants/accused and co-accused Anil Sundariyal were present in the temple at that time. In the temple, a minor girl Km. Kavita had come. The appellants/accused coloured her face on which that girl wept. When his brother Kundan Singh asked the appellants not to do so, then they became furious and started committing Marpit. On this the co-accused Anil Sundariyal and appellant-accused Mohan Lal caught the hands of Kundan Singh, appellants/accused Pappu and Kukka caught hold of Kundan Singh and accused Mohan Lal and Anil Sundariyal also caught the hands of Kundan Singh and they made him fallen down. After falling his brother falling down, the appellant/accused Dharendra hit a brick on the head of his brother while the others beaten his brother with stones and DANDAS, as a result of which his brother became unconscious. Thereafter, he along with Lilalamber @ Lalit Mohan Pandey reached on the spot and Damodar Jakhmola, priest of temple and Hira Ballabh Pandey also arrived there to intervene. All the accused persons also caused injuries to him and they also hit a brick on the head of Lilamber. Thereafter, the injured Kundan Singh was taken to the government hospital Ramnagar where the doctors declared him dead. He further stated that his brother succumbed to the injuries caused by the appellants/accused. Thereafter, he lodged the report, i.e. Ex.Ka-1. His medical examination was also conducted

at Ramnagar Hospital. This witness was cross-examined at length by the defence counsel but nothing has come out in his statement which may create any doubt therein. The statement of this witness is reliable and believable.

14. PW2 Km. Kavita has not supported the prosecution case and was declared hostile.

15. PW3 Damodar Prasad, priest of the temple, who stated that on 12.3.1998 at about 9:30 PM, some program of Holi and distribution of Prasad was continuing and 4 gas burners were lightning. One girl was helping him in distribution of Prasad and some persons had coloured her face. He also stated that from last three years, his visibility power is low and he could not identify the person due to low visibility and someone informed him that someone had coloured the face of girl. He further stated that Kundan Singh Manral stopped them not to do so on which the accused persons became furious and started beating Kundan Singh Manral with bricks and stones as a result of which he became unconscious and fell down. He was taken to hospital and at last, Kundan Singh Manral succumbed to his injuries. Now, his visibility has become very low and he cannot identify anyone. Kundan Singh Manral was the President of the temple.

16. PW4 P.S. Ghughtiyal, who has proved the inquest report Ex.Ka-5 and he also signed on that report.

17. PW7 SI Atar Singh who stated that on 13.3.1998 he was posted as SI at PS Ramnagar. He prepared the inquest report Ex.Ka-5 and along with that, other documents viz. Police Form No. 33, report of CMS, sketch of dead body, Challan Lash, specimen of seal and report to RI were also prepared which were marked as Exs.Ka-6 to Ka-10.

18. PW8 H.C. Rohtash Kumar who proved the CHIK FIR prepared by him, i.e. Ex.Ka-11. He also made entry in the GD, copy whereof is Ex.Ka-12.

19. PW9 Lilamber Pandey who stated that on 12.3.1998 at about 9 PM, he was coming from his house for the program of Holika Dahan, which was continuing in Durga Temple Compound. Kundan Singh Manral is the President of that Society Temple. He had not seen anyone while colouring the face of anyone. He saw that 4-5 persons came out of the wall of temple by jumping. When he went inside he saw the injuries on Kundan Singh Manral and he was informed that the boys who ran away from there, had caused injury by stone due to which he (Kundan Singh) was unconscious. He also sustained injury with a stone because he was inside the temple when the stones were being pelted and he was also medically been examined. The persons who pelted the stones, had gone by jumping the wall. Due to the injuries Kundan Singh became unconscious and ultimately he succumbed to those injuries. Kundan Singh was also taken to the hospital in unconscious state where the doctors declared him dead. He had seen the accused Dharendra, Mohan Lal, Jitendra, Anil Sundariyal, Kailash @ Kukka as well as Durga Singh Manral on the spot. The light of lamp was also there. This witness has also supported the prosecution story.

20. PW10 SI Nanhe Lal who stated that investigation was entrusted to him. He prepared the site plan of the place of occurrence Ex.Ka-13. He also took a brick and a stone from the place of occurrence and prepared Fard Ex.Ka-14. During investigation, he recorded the statements of witnesses and after completing the investigation, he filed the charge sheet Ex.Ka-15.

21. After that the statements of the appellants/accused were recorded u/s 313 Cr.P.C. The oral and documentary evidence was put to each of them in question form, who denied the allegations made against them and stated that they have been falsely implicated. However, they did not produce any oral or documentary evidence in defence.

22. Sri S.K. Aggarwal, learned senior counsel appearing for the appellants/accused argued that the prosecution has not proved its case against them beyond reasonable doubt. I do not find any force in this argument for the reason that as per the above discussion, the prosecution has amply proved its case beyond reasonable doubt against the appellants/accused for the offences punishable under Sections 147, 304 and 323/149 except the offence punishable u/s 354 IPC. The prosecution in order to prove its case examined PW1 Durga Singh, the injured witness of the case, who stated that on 12.3.1998 at about 10:35 PM he had lodged one report. This incident took place on that day at about 9:30 PM. On that day, Holika Dahan program was continuing. Kundan Singh Manral, his elder brother, was the member of this Committee. The program had already completed by 7:30 PM. At the time of incident, distribution of Prasad was being done and his brother Kundan Singh Manral was doing the said work. The appellants/accused and co-accused Anil Sundariyal were present in the temple at that time. In the temple, a minor girl Km. Kavita had come. The appellants/accused coloured her face on which that girl wept. When his brother Kundan Singh asked the appellants not to do so, then they became furious and started committing Marpit. On this the accused Anil Sundariyal and appellant/accused Mohan Lal caught the hands of Kundan Singh, appellants/accused Pappu and Kukka caught hold of Kundan Singh and accused Mohan Lal and Anil Sundariyal also caught the hands of Kundan Singh and they made him fallen down. After falling his brother falling down, the appellant/accused Dharendra hit a brick on the head of his brother while the others beaten his brother with stones and DANDAS, as a result of which his brother became unconscious. Thereafter, he along with Lilalamber @ Lalit Mohan Pandey reached on the spot and Damodar Jakhmola, priest of temple and Hira Ballabh Pandey also arrived there to intervene. All the accused persons also caused injuries to him and they also hit a brick on the head of Lilalamber. Thereafter, the injured Kundan Singh was taken to the government hospital Ramnagar where the doctors declared him dead. He further stated that his brother succumbed to the injuries caused by the appellants/accused. Thereafter, he lodged the report, i.e. Ex.Ka-1. His medical examination was also conducted at Ramnagar Hospital. The statement of this witness is reliable and believable and the same also gets corroboration from the medical evidence. In the post-mortem report of the deceased, cause of death

has been shown as COMA as a result of ante-mortem head injury. PW6 Dr. Surendra Singh stated that the injuries could have been caused on 12.3.1998 at 9:30-10 PM and the injuries could have been caused by pelting of brick, stones and also by Lathis-Dandas. Even PW1 Durga Singh and PW9 Lilamber Pandey also sustained injuries and they were examined by PW5 Dr. K.C. Joshi, who stated that injuries on their person could be caused by pelting of bricks or stones or by some hard and blunt object and the injuries were fresh and could have been caused on 12.3.1998 at about 9:30 PM. Even the oral evidence also gets corroboration from the evidence of PW3 Damodar Prasad and PW9 Lilamber Pandey, who have also supported the prosecution story to some extent. Therefore, in view of the above-said discussion, the prosecution has been fully successful in proving its case against the appellants/accused.

23. However, so far as the offence punishable u/s 354 IPC is concerned, the prosecution has failed to prove its case against the appellants/accused inasmuch as PW2 Km. Kavita, whose face was said to be coloured by the accused, has been declared hostile and even there is no evidence available on record to prove the offence u/s 354 IPC against the appellants and they are liable to be acquitted accordingly under this section.

24. It was next argued on behalf of the appellants that there in the present case only the sole testimony of PW1 Durga Singh is there and there is no other evidence in support of his evidence and, therefore, on the sole testimony, the conviction cannot be maintained. On the other hand, Sri Amit Bhatt, learned Addl. GA for the State refuted the submission advanced by learned senior counsel for the appellants and he cited a judgment rendered by the Hon^{ble} Supreme Court in the Case of Chittar Lal Vs. State of Rajasthan, in which it has been held that conviction can be based on sole evidence of a witness if it inspires confidence. Para 7 of the judgment is quoted below:

Evidence of the person whose name did not figure in the FIR as witness does not perforce become suspect. There can be no hard-and-fast rule that the names of all witnesses, more particularly eyewitnesses should be indicated in the FIR. As was observed by this Court in Shri Bhagwan v. State of Rajasthan mere non-mention of the name of an eyewitness does not render the prosecution version fragile. The information was not lodged by an eyewitness. Mental condition of a person whose father has lost his life inevitably gets disturbed. Explanation offered by witnesses for non-mention of PW 3's name is plausible. Additionally, it is to be noted that in the present case the statement of PW 3 was recorded on the same day of incident, immediately after the investigation process was set into motion. Therefore, the plea that PW 3's testimony is doubtful lacks substance. The other plea was that conviction should not have been made on the basis of a single witness, PW 3's testimony. This plea is equally without essence. The legislative recognition of the fact that no particular number of witnesses can be insisted upon is amply reflected in Section 134 of the Indian Evidence Act, 1872 (in short "the Evidence Act"). Administration of justice can be affected and

hampered if number of witnesses were to be insisted upon. It is not seldom that a crime has been committed in the presence of one witness, leaving aside those cases which are not of unknown occurrence where determination of guilt depends entirely on circumstantial evidence. If plurality of witnesses would have been the legislative intent, cases where the testimony of a single witness only could be available, in number of crimes the offender would have gone unpunished. It is the quality of evidence of the single witness whose testimony has to be tested on the touchstone of credibility and reliability. If the testimony is found to be reliable, there is no legal impediment to convict the accused on such proof. It is the quality and not the quantity of evidence which is necessary for proving or disproving a fact. This position has been settled by a series of decisions. The first decision which has become locus classicus is Mohd. Sugul Esa Mamasan Rer Alalah. R. The Privy Council focused on the difference between English law where a number of statutes make conviction impermissible for certain categories of offences on the testimony of a single witness and Section 134 of the Evidence Act. The view has been echoed in Vadivelu Thevar v. State of Madras, Guli Chand v. State of Rajasthan, Vahula Bhushan v. State of T.N., Jagdish Prasad v. State of M.P. and Kartik Malhar v. State of Bihar.

25. Learned Addl. GA for the State also cited a judgment of Hon^{ble} Apex Court in the case of Mahendra Singh v. State of M.P. reported in (2007) 3 SCC (Cri.) 583. He relied on para 11 which reads as under:

11. It is now a well-settled principle of law that conviction can be based on the basis of the testimony of a sole eyewitness.

26. After considering the aforesaid judgments rendered by Hon^{ble} Apex Court and in view of the evidence discussed above, the argument advanced by learned senior counsel for the appellants is not sustainable in the eye of law and is accordingly rejected.

27. It is pertinent to mention here that the co-accused of this case Anil Sundariyal, was also convicted by the Juvenile Justice Board, Nainital vide judgment and order dated 5.12.2008 under Sections 147/354/304 IPC, however he was released on probation of good conduct, being a Juvenile.

28. Learned senior counsel appearing for the appellants-accused drew attention of the Court towards the High School Certificates of the appellants/accused Ravindra Singh Bisht and Jitendra Singh Bisht (annexed as Paper Nos.35-Kha/2 and No. 35-Kha/4 respectively), in which their date of births have been mentioned as 3.11.1980 and 4.12.1980 respectively and submitted that these appellants/accused Ravindra Singh Bisht and Jitendra Singh Bisht are liable to be given the benefit of Juvenile in view of Section 2(k) of the Juvenile Justice (Care and Protection of Children) Act, 2000, which provides that "Juvenile or "child" means a person who has not completed eighteenth year of age?. The appellants-accused Ravindra Singh Bisht and Jitendra Singh Bisht were aged about 17 years and 4 months and about 17 years and 3 months respectively on the date of

incident. It was further submitted that at the time of commission of the said incident, though the Juvenile Justice Act, 1986 was in force, however as per the Hon?ble Apex Court judgment in the case of Hari Ram Vs. State of Rajasthan and Another, , those appellants ought to be given the benefit of "Juvenile" in view of Section 2(k) the Juvenile Justice Board (Care & Protection of Children) Act, 2000. Reliance is placed upon the paragraphs 6, 66, 67, 68, 69, 70, 71 and 72 which read as under:

6. According to the appellant?s father, the appellant?s date of birth is Kartik Sudi 1, Samvat Year 2039, which is equivalent to 17-10- 1982, whereas the offence was alleged to have been committed on 30th October, 1998, which mathematically indicates that at the time of commission of the offence, the appellant had completed 16 years and 13 days and was, therefore, excluded from the scope and operation of the Juvenile Justice Act, 2000. Furthermore, the medical examination conducted in respect of the appellant by a Medical Board indicated that his age at the relevant time was between 16 and 17 years.

66. Section 7A was introduced in the 2000 Act and Section 20 thereof was amended whereas Rule 12 was included in the Juvenile Justice Rules, 2007, which gave retrospective effect to the provisions of the Juvenile Justice Act, 2000.

67. Section 7A of the Juvenile Justice Act, 2000, made provision for the claim of juvenility to be raised before any Court at any stage, as has been done in this case, and such claim was required to be determined in terms of the provisions contained in the 2000 Act and the Rules framed thereunder, even if the juvenile had ceased to be so on or before the date of commencement of the Act.

68. Accordingly, a juvenile who had not completed eighteen years on the date of commission of the offence was also entitled to the benefits of the Juvenile Justice Act, 2000, as if the provisions of Section 2(k) had always been in existence even during the operation of the 1986 Act.

69. The said position was re-emphasised by virtue of the amendments introduced in Section 20 of the 2000 Act, whereby the Proviso and Explanation were added to Section 20, which made it even more explicit that in all pending cases, including trial, revision, appeal and any other criminal proceedings in respect of a juvenile in conflict with law, the determination of juvenility of such a juvenile would be in terms of clause (l) of Section 2 of the 2000 Act, and the provisions of the Act would apply as if the said provisions had been in force when the alleged offence was committed.

70. In the instant case, there is no controversy that the appellant was about sixteen years of age on the date of commission of the alleged offence and had not completed eighteen years of age. In view of Sections 2(k), 2(l) and 7A read with Section 20 of the said Act, the provisions thereof would apply to the appellant?s case and on the date of the alleged incident it has to be held that he was a juvenile.

71. The appeal has, therefore, to be allowed on the ground that notwithstanding the definition of "juvenile" under the Juvenile Justice Act, 1986, the appellant is covered by the definition of "juvenile" in Section 2(k) and the definition of "juvenile in conflict with law" in Section 2(l) of the Juvenile Justice Act, 2000, as amended.

72. We, therefore, allow the appeal and set aside the order passed by the High Court and in keeping with the provisions of Sections 2(k), 2(l), 7A and 20 of the Juvenile Justice Act, 2000 and Rules 12 and 98 of the Juvenile Justice Rules, 2007, hold that since the appellant was below 18 years of age at the time of commission of the offence the provisions of the said Act would apply in his case in full force.

29. In view of the aforesaid dictum of the Hon^{ble} Apex Court, it is ample clear that a juvenile who had not completed eighteen years on the date of commission of the offence was also entitled to the benefits of the Juvenile Justice Act, 2000, as if the provisions of Section 2(k) had always been in existence even during the operation of the 1986 Act. Even the said position was re-emphasised by virtue of the amendments introduced in Section 20 of the 2000 Act, whereby the Proviso and Explanation were added to Section 20, which made it even more explicit that in all pending cases, including trial, revision, appeal and any other criminal proceedings in respect of a juvenile in conflict with law, the determination of juvenility of such a juvenile would be in terms of clause (l) of Section 2 of the 2000 Act, and the provisions of the Act would apply as if the said provisions had been in force when the alleged offence was committed. Thus, having regard to the aforesaid discussion, it is held that since the appellants Ravindra Singh Bisht and Jitendra Bisht were below 18 years of age at the time of commission of the offence, the provisions of the Juvenile Justice Act, 2000 would apply in their case in full force and they are accordingly extended the benefit of Juvenile.

30. In view of the aforesaid proposition of law, the appeal preferred by appellants-accused Ravindra Singh Bisht and Jitendra Singh Bisht is allowed and in keeping with the provisions of Sections 2(k), 2(l), 7-A and 20 of the Juvenile Justice Act, 2000 and Rules 12 and 98 of the Juvenile Justice Rules, 2007, it is held that since the appellant was below 18 years of age at the time of commission of the offence, the provisions of the said Act would apply in his case in full force. The matter is accordingly remitted to the Juvenile Justice Board, US Nagar for disposal in accordance with law, expeditiously within three months from the date of receipt of a copy of this order, having regard to the fact that the offence is alleged to have been committed more than twelve years ago.

31. So far as the conviction and sentence of the appellants-accused Mohan Lal Verma and Kailash Negi @ Kukka is concerned, I concur the view taken by the trial court in convicting and sentencing them u/s 147, 304 and 323/149 IPC, as above discussed. The appeal preferred by them is partly allowed. They are on bail. Let they be taken into custody forthwith to serve out the sentence as awarded against him by the trial court, as above discussed. However, it is made

clear that the period of sentence already served out by them during investigation, trial or during appeal shall be adjusted after verifying from the records.

32. It is reiterated that all the appellants/accused are acquitted for the charge punishable u/s 354 IPC for the reasons as above recorded.

33. Let a copy of this order be sent back to the trial court concerned for compliance of the order forthwith.