
(2019) 04 UK CK 0108

In the Uttarakhand High Court

Case No : Government Appeal No. 109 Of 2007

State		APPELLANT
	Vs	
Kashiram		RESPONDENT

Date of Decision : 22-04-2019

Acts Referred:

Indian Penal Code, 1860 — Section 307, 324, 506

Citation : (2019) 04 UK CK 0108

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : Pushpa Bhatt, Raj Kumar Singh

Final Decision : Dismissed

Judgement

Alok Singh, J

1. Present appeal is filed against the judgment and order dated 18.01.2007 passed by Addl. Sessions Judge, Haridwar in Sessions Trial No. 279 of 2004 whereby learned trial court was pleased to acquit the accused respondent of the charges levelled against him under Section 307, 324, 506 IPC.

2. Prosecution story in brief is that Veerbati and Kansiram are husband and wife; they have three children namely Sushil, Lata and Kapil; there is tussle between husband and wife; it is the allegation of the wife Veerbati that her husband has illicit relations with his sister-in-law (Bhabhi); on 08.02.2004, Veerbati went to harvest the crop of sugarcane; in the sugarcane field Kashiram attacked on her with Palkati (sharp edged weapon); she received injuries; she was taken to hospital by Sushil (son of Veerbati); regarding this incident an FIR was registered by PW1 Vedpal on 10.02.2004.

3. In order to prove its case, prosecution has examined PW1 Vedpal, PW2 Lata, PW3 Kapil Kumar, PW4 Veervati, PW5 Dr. P.K. Bhatnagar, PW6 Shiv Kumar Gupta, PW7 Constable Anup Singh, PW8 Ram Avatar.

4. Learned trial Judge having considered the entire material available on record, came to the conclusion that prosecution has failed to prove its case against accused respondents beyond reasonable doubt.

5. PW2 Lata and PW3 Kapil Kumar were alleged to be eye witness of the incident but they were declared hostile. They are children of Veerbati. Per contra, elder son of Veerbati DW1 Sushil stated that his mother fell on harrow consequently, she received injuries. He was on the spot at the time of incident and he took her mother to the hospital. All the injuries were on the right side of Veerbati, therefore, I find force in the statement of Sushil Kumar that her mother received injuries due to fall on the harrow. PW5 Dr. P.K. Bhatnagar stated that injuries sustained by Veerbati could be caused due to fall on sharp edged weapon.

6. In the present case, FIR was also lodged with delay of two days and there is no explanation for delay, it appears that FIR was lodged after consultation.

7. I am conscious about the fact that in an appeal or revision against the judgment of acquittal, appellate or revisional court should not lightly interfere with the reasoning and findings recorded by the trial court, even if two views are possible. The Superior Court may interfere with the judgment of acquittal, only when the Superior Court comes to a definite conclusion that judgment of acquittal is shocking in the facts and circumstances of the case, or the Superior Court finds that trial court fails to appreciate the evidence in right perspective or if judgment impugned is found to be totally perverse or if the Superior Court comes to a conclusion that trial court denied fair opportunity to adduce evidence on the ground uncalled for.

8. In view of the above discussion, no interference is called for. Accordingly, government appeal fails and is hereby dismissed without costs.

9. Registry is directed to supply a copy of this judgment to the court below for information along with lower court record.