
(2011) 01 AHC CK 0107
In the Allahabad High Court
Case No : CR.P.C. No. 255 of 2007

State of U.P

APPELLANT

Vs

Bhagauti Sharma and Others

RESPONDENT

Date of Decision : 03-01-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 378(3)
Limitation Act, 1963 — Section 5
Penal Code, 1860 (IPC) — Section 147, 149, 307, 323, 324

Citation : (2011) 01 AHC CK 0107

Hon'ble Judges : Yogendra Kumar Sangal, J; Abdul Mateen, J

Bench : Division Bench

Final Decision : Allowed

Judgement

C.M. Application No. 10597 of 2007

1. This is an application moved on behalf of the State u/s 5 of the Limitation Act for condoning delay in filing the appeal. As per Stamp Reporter's report dated 01.08.2007 there is delay of 6 months and 22 days in filing the appeal.
2. Although time was granted to the Respondents for filing objection, but no objections has been filed.
3. We have heard learned Counsel for the State and have gone through the application.
4. Reasons shown in the affidavit filed in support of the application seem to be cogent and germane.
5. Accordingly, the application is allowed and delay in filing the appeal is hereby condoned.
6. Heard learned Counsel for the State.
7. This application u/s 378(3) Code of Criminal Procedure has been moved on

behalf of the State for granting leave to appeal against the judgment and order dated 10.10.2006 passed by the Court of II Ird Additional District and Sessions Judge, Faizabad in Session Trial No. 430 of 2000 whereby acquitting the Respondents of the charges levelled against them u/s 307/149 and 504 IPC and convicting them only under Sections 147, 323/149, 324/149 and 325/149 IPC for maximum term of three years rigorous imprisonment.

8. We have gone through the contents of the judgment of the court below.

9. Argument advanced by the learned Counsel for the State is that judgment on the face of it discloses that the injured persons were also produced; they stated before the Court the manner in which the accused-persons had committed the crime and inflicted the injuries by using lathi and spear. Testimony of PW-1, namely, Ram Achal Sharma was discarded while the incident took place in broad-day light and the injuries received on his person were approved by PW-6 Dr. Ram Pyare. In his statement, the Doctor has stated that the injuries could have been received on the date, which itself was sufficient for convicting the accused-persons for the offence under Sections 307/149 IPC as well as 504 IPC.

10. There seems to be some substance in the argument advanced.

11. Accordingly, the application is allowed and leave to appeal is granted.

12. Admit.

13. Let bailable warrant of arrest be issued against the Respondents through the Chief Judicial Magistrate concerned fixing 03.02.2011 for their attendance before this Court.