
(2012) 01 AHC CK 0533
In the Allahabad High Court
Case No : Criminal P.C. No. 8 of 2012

State of U.P.

APPELLANT

Vs

Bhulaan and Others

RESPONDENT

Date of Decision : 18-01-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 378(3)
Penal Code, 1860 (IPC) — Section 147, 149, 308, 323, 395

Citation : (2012) 01 AHC CK 0533

Hon'ble Judges : Sunil Hali, J; Abdul Mateen, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Heard learned counsel for the State.
2. The State has filed this application u/s 378 (3) Cr.P.C for grant of leave to appeal against judgment of acquittal of the respondents passed in Sessions Trial No. 1155 of 2010 by the Additional Sessions Judge (Court No. 35), Barabanki vide judgment and order dated 15.09.2011 acquitting the respondents of charges framed against them under Sections 147, 308/149, 323/149, 395/149, 427/149, 436/149, 458/149, 504 & 506 IPC.
3. We have gone through the judgment of the learned court below.
4. As it comes out that on 30.08.2009 at 07.00 p.m. the respondents reached the village of the complainant and demolished the wall, which was the bone of contention between the parties and for which even a case was pending before the competent court, since the respondents were objecting to the construction of the wall claiming it to have been erected on the land belonging to them. The prosecution case is that the respondents demolished the wall of the complainant, committed robbery and burnt his house and inflicted injuries to four persons on the side of the complainant out of which three injured persons were examined as prosecution witnesses in the trial.

5. Arguments advanced by the learned counsel for the State is that in spite of the fact that the court below has admitted the case as set up by the prosecution, there being sufficient evidence on record, but has acquitted the respondents giving them the benefit of Section 97 IPC, i.e. right of private defence. Argument advanced by the learned counsel for the State is that benefit of Section 97 IPC could not have been given to the respondents for the reason that the respondents had travelled from their village to the village of the complainant and had demolished the wall, looted the property of the complainant and had burnt his house and had also inflicted injuries to four persons on the side of the complainant out of which three injured persons were examined as prosecution witnesses in the trial and had supported the prosecution case.

6. We find force in the arguments advanced by the learned counsel for the State.

7. Leave to appeal is granted.

8. Admit.

9. Let bailable warrants of arrest be issued against the respondents fixing their appearance before this Court on 16th February 2012.

10. List again on 16th February 2012.