
(2022) 03 UK CK 0041

In the Uttarakhand High Court

Case No : Special Leave To Appeal No. 31 Of 2022, Government Appeal No. 10 Of 2022

State Of Uttarakhand

APPELLANT

Vs

Ganesh Ram

RESPONDENT

Date of Decision : 08-03-2022

Acts Referred:

Citation : (2022) 03 UK CK 0041

Hon'ble Judges : S.K. Mishra, J;A. K. Verma, J

Bench : Division Bench

Advocate : J.S. Virk, Rakesh Joshi

Final Decision : Dismissed

Judgement

S.K. Mishra, J

Special Leave to Appeal No. 31 of 2022 :-

1. This is an application for grant of leave to appeal against the order of acquittal rendered by the Court of learned Sessions Judge, Pithoragarh, Camp Didihat in Session Trial No. 11 of 2015 dated 21.08.2021.

2. Heard Mr. J.S. Virk, the learned Deputy Advocate General, perused the impugned judgment, and considered the grounds taken by the State of Uttarakhand in the Appeal memo.

3. The case of the prosecution was based entirely on circumstantial evidence, and the learned Deputy Advocate General for the State admits, while arguing, that the last seen theory and the homicidal nature of death of the deceased are the only circumstances available.

4. As per the ratio decided by the Hon'ble Supreme Court in Ghurey Lal v. State of U.P.; (2008) 10 SCC 450, there has to be very substantial and compelling reasons for setting aside a judgment of acquittal, as the presumption of innocence becomes stronger by acquittal of the respondent, i.e. the accused, by

the learned Trial Court. In the said case, it has also been decided that, while appreciating evidence, merely because the Appellate Court has a different opinion, the Appeal cannot be allowed.

5. In this case we also take note of the judgment rendered by the Hon'ble High Court of Orissa in CRLLP No. 103 of 2015, State of Orissa v. Urmila Nayak, in which one of us (S.K. Mishra, A.C.J.) has rendered the judgment, wherein it has been held that, while granting Special Leave to Appeal, the Court must be satisfied about the existence of, prima facie, compelling and substantial reasons.

6. Keeping in view the aforesaid considerations, we are of the considered opinion that there are no, prima facie, 'substantial and compelling reasons', to come to the conclusion that the matter should be heard, the impugned judgment should be re-examined or examined by the Appellate Court in an Appeal against acquittal.

7. In that view of the matter, we are of the opinion that there is no merit in the application for Special Leave to Appeal against acquittal. Hence, the leave is not granted and the Special Leave to Appeal No.31 of 2022 is dismissed.

Government Appeal No. 10 OF 2022

8. Since Special Leave to Appeal has not been granted, the Government Appeal No. 10 of 2022 is not maintainable against the judgment and order of acquittal dated 21.08.2021.