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**(2010) 05 UK CK 0091**

**In the Uttarakhand High Court**

**Case No :** Special Leave to Appeal No. 105 of 2008 With Government Appeal No. 334 of 2008

State of Uttarakhand

APPELLANT

Vs

Pyare Lal

RESPONDENT

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**Date of Decision :** 04-05-2010

**Acts Referred:**

**Citation :** (2010) 2 UC 942

**Hon'ble Judges :** Nirmal Yadav, J;B.C.Kandpal, J

**Bench :** Division Bench

**Advocate :** Nandan Arya, A.G.A. for the State of Uttarakhand/Appellant, for the Appellant;

**Final Decision :** Dismissed

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## **Judgement**

1. Heard learned AGA for the Appellant / applicant on the delay condonation application and perused the affidavit filed in support thereto.
2. We find sufficient grounds to condone the delay in moving the Special Leave to Appeal. Delay condonation application No. 1026 of 2008 is accordingly allowed. Delay in moving the Special Leave to Appeal is hereby condoned.
3. Heard learned AGA on special leave to appeal and perused the record.
4. Having considered the argument advanced by learned AGA and after perusing the entire material available on record, we are of the view that the trial court has correctly assessed the entire evidence produced by the prosecution and thereafter, has rightly come to the conclusion that the prosecution has failed to establish the guilt of the accused / Respondent. It is well settled principle of law that if two views are possible, the one which favours the accused has to be adopted by the court. The appellate court should not substitute its own view in the appeal against the acquittal merely because the appellate court is inclined to take a different view.

5. We do not find any infirmity in the impugned judgment passed by the court below. Accordingly, special leave to appeal is dismissed. Consequently, government appeal against the judgment and order dated 20.08.2008 passed by the learned trial court thereby acquitting the accused/respondent also stands dismissed.