
(2022) 03 UK CK 0136

In the Uttarakhand High Court

Case No : Special Leave To Appeal No. 36 Of 2022, Government Appeal No. 13 Of 2022

State Of Uttarakhand

APPELLANT

Vs

Ravi Yadav

RESPONDENT

Date of Decision : 22-03-2022

Acts Referred:

Citation : (2022) 03 UK CK 0136

Hon'ble Judges : S.K. Mishra, J; R.C. Khulbe, J

Bench : Division Bench

Advocate : J.S. Virk, R.K. Joshi

Final Decision : Dismissed

Judgement

S.K. Mishra, J

Special Leave to Appeal No. 36 of 2022:-

1. This is an application for grant of leave to appeal against the order of acquittal rendered by the Court of learned Additional Sessions Judge/F.T.S.C., Rudrapur, District Udham Singh Nagar in Session Trial No. 154 of 2018, dated 23.11.2021.

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. We do not find any incriminating circumstances in the present case. We also do not find any compelling and substantial reasons, prima facie, to grant Special Leave to Appeal. In this case we 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 laid down as follows :-

No doubt the judgment rendered by the Hon'ble Supreme Court in Ghurey Lal Vs. State of U.P.; (2008) 10 SCC 450 case relates to final judgment of the appeal

against acquittal, but we are of the opinion that those Considerations also should weigh in the mind of the Court while granting the leave to file appeal against acquittal. However, while considering the desirability or otherwise of granting leave to appeal against acquittal, the appellate Court, at the first instance, is required to, prima facie, be satisfied about the existence of conditions that are required for overturning a judgment of acquittal to one of conviction. While deciding a matter regarding grant of leave to appeal against acquittal, the Court must be satisfied, prima facie, that at the final hearing of the appeal 'very substantial and compelling reasons' can be shown, on the basis of which it will be most reasonable to overturn a judgment of acquittal. Only then the appellate court should grant the leave to appeal against acquittal.

4. Keeping in view the aforesaid considerations, we are of the considered opinion that there is 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 appeal against acquittal.

5. 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. 36 of 2022 is dismissed.

Government Appeal No. 13 OF 2022

6. Since Special Leave to Appeal has not been granted, the Government Appeal No. 13 of 2022 is not maintainable against the judgment and order of acquittal dated 23.11.2021.