

(2013) 04 UK CK 0041

In the Uttarakhand High Court

Case No : Government Appeal No. 20 of 2010 and Criminal Revision No. 136 of 2004

State of Uttaranchal

APPELLANT

Vs

Anil Kumar
 Smt. Sarvati Chandra Vs State of
Uttaranchal and Another

RESPONDENT

Date of Decision : 01-04-2013

Acts Referred:

Citation : (2013) 2 NCC 77

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : M.A. Khan, AGA in Government Appeal No. 20 of 2010 and Mr. Sandeep Tandon in Criminal Revision No. 136 of 2004, for the Appellant; R.P. Nautiyal, assisted by Mr. Prashant Khanna, Advocate in Government Appeal No. 20 of 2010 and for Respondent No. 2 in Criminal Revision No. 136 of 2004 and Mr. M.A. Khan, AGA for State in Criminal Revision No. 136 of 2004, for the Respondent

Judgement

Alok Singh, J.—Complainant PW1 has preferred this criminal revision assailing the judgment and order dated 31.07.2004 passed by Additional Sessions Judge/1st FTC, Dehradun in Sessions Trial No. 55 of 1999 whereby the accused respondent No. 2 was acquitted from the charge punishable u/s 307 IPC while Government Appeal No. 20 of 2010 was preferred by the State assailing the same judgment and order. Since in the appeal and revision impugned judgment is same, therefore, both are being disposed of by this common judgment. Brief facts of the present case inter alia are that PW1 lodged an FIR on 31.10.1997 at 2020 hours stating therein that in the intervening night of 30/31.10.1997, she was sleeping in her house situated at B-4/1 Vigyan Vihar IRDI; at about 12.30 a.m. someone had knocked her door and called her son PW4 outside the house and at about 05.00 a.m. in the morning she noticed that someone was crying outside the house; she, thereafter, came out and found that her son PW4 was lying unconscious and blood was oozing out from his head, nose & ears and was

seriously injured; she after getting PW4 admitted in Jain Nursing Home, Race Course, came to lodge the FIR.

2. In an appeal or revision filed against the judgment of acquittal, Superior Court ordinarily should not interfere with the findings recorded by the trial court merely because two views are possible. The Superior Court can interfere with the judgment of acquittal only when the Superior Court finds that findings recorded by the trial court, are shocking and perverse, or if the trial court has deprived either of the parties to lead reliable evidence or if superior court finds that learned trial court has committed such serious error of law and jurisdiction which has resulted in miscarriage of justice.

3. In the present case, PW1 complainant states that in the intervening night of 30/31.10.1997 unknown person had knocked the door of her house and called PW4 out and thereafter, on the next day morning, PW4 was found lying unconscious and bleeding while PW4 injured states that at about 08.00 p.m. on 30.10.1997, he himself went out from his house and when he was near the shopping complex, he was assaulted by the respondent No. 2 with iron rod on his head, thereafter, he became unconscious.

4. There seems to be a major contradiction in the statements of PW1 and PW4. Not only this, PW5 Dr. Mahesh Kuniyal, who medically examined PW4, stated that PW4 was suffering from Schizophrenia and a person suffering from Schizophrenia may inflict serious injuries to himself. PW5 further stated that injuries sustained by PW4 could be self-inflicted. He further stated that these injuries were not sufficient to cause death.

5. In view of contradictory statements of PW1 and PW4, as observed hereinabove, and in view of opinion of Medical Expert, I do not find any justification to take contrary view to the view taken by the trial court. There is no merit either in the appeal or in the revision. Consequently both the appeal and the revision are hereby dismissed. Let a copy of this judgment be sent to the court below for information along with lower court record.