

(2020) 08 UK CK 0045
In the Uttarakhand High Court
Case No : Criminal Revision No. 189 Of 2012

Tej Prakash Jairath

APPELLANT

Vs

State Of Uttarakhand

RESPONDENT

Date of Decision : 21-08-2020

Acts Referred:

Indian Telegraph Act, 1885 — Section 21, 25
Code Of Criminal Procedure, 1973 — Section 313, 397, 401

Citation : (2020) 08 UK CK 0045

Hon'ble Judges : R.C. Khulbe, J

Bench : Single Bench

Advocate : Lokendra Dobhal, A. K. Sah, Mamta Joshi

Final Decision : Partly Allowed

Judgement

R.C. Khulbe, J

1. This criminal revision, preferred by the revisionist u/s 397/401 of Code of Criminal Procedure, 1973 (hereinafter to be referred as Cr.P.C.), is

directed against the judgment and order dated 23.03.2009 passed by the Second Judicial Magistrate, Dehradun, in Criminal Case No.2853 of 2008,

whereby the learned Magistrate convicted the revisionist under Section 21 of the Indian Telegraph Act and sentenced him to pay fine of Rs.40/-; he

was further convicted under Section 25 of the said Act and was directed to undergo six monthsâ?? S.I. with fine of Rs.2,000/-. The revisionist has

also challenged the judgment dated 20.09.2012 passed by the First Additional Sessions Judge, Dehradun in Criminal Appeal No.33 of 2009, Tej

Prakash Jairath v. State, whereby the learned Sessions Judge dismissed the appeal and affirmed the order passed by the Lower Court.

2. Brief facts of the case are that informant PW1 Ravi Kant Mishra submitted

information with Kotwali Dehradun. After investigation, charge sheet was submitted under Section 21 and 25 Indian Telegraph Act (hereinafter to be referred as the Act). Accordingly, cognizance was taken and learned Magistrate framed the charges on 18.04.1996, in reply of which, the accused denied the same and claimed to be tried.

3. The prosecution produced PW1 Ravi Kant Malhotra, PW2 Ravinder Singh, PW3 Dr. Ishwar Chand, PW4 C.L. Maurya and PW5 R.K. Kanojiya.

4. After completion of prosecution evidence, facts of the prosecution evidence were put to the revisionist under Section 313 Cr.P.C., in reply to which, the revisionist denied all the allegations. No evidence was adduced in defence by the revisionist.

5. After hearing both the parties, the Trial Court convicted and sentenced the revisionist as per the details given in paragraph no.1 of the judgment.

Aggrieved by the same, the revisionist preferred Criminal Appeal No. 33/2009, Tej Prakash Jairath Vs. State, which was decided by the First

Additional Sessions Judge, Dehradun, who, after hearing the parties, dismissed the appeal and affirmed the lower Court's order. Assailing both the orders, the present revision has been preferred.

6. I have also gone through the statements of witnesses, namely, PW1 Ravi Kant Malhotra, PW2 Ravinder Singh, PW3 Dr. Ishwar Chand, PW4 C.L.

Maurya and PW5 R.K. Kanojiya. The testimony of the above witnesses is not only natural but also trustworthy. They have been subjected to lengthy

cross-examination but nothing has come out in their evidence which may create any reasonable doubt in their testimony. In the above circumstances

the Trial Court has rightly held that the prosecution has successfully proved the charges against the revisionist beyond reasonable doubt. There is no

illegality or perversity in the impugned judgment, since material and substantial evidence is available on record against the revisionist. The revisionist

has rightly been convicted by the Trial Court u/s 21 and 25 of the Act, and the order of conviction has also rightly been upheld by the Appellate Court.

7. Mr. Lokendra Dobhal, learned counsel for the revisionist fairly submits that the conviction of the revisionist, as recorded by the Court below u/s 21

and 25 of the Act, is perfectly justified as per the evidence recorded before the trial court and he also does not want lay any challenge on the same; he

only confined his prayer to the extent that the sentence awarded to the

revisionist by the trial court may be reduced to that of already undergone by him. The reasons shown, for such a prayer, are that there is no minimum punishment prescribed for the offence; the respondent has already served for more than two months; there is no criminal history against him; the accused is only bread winner of his family; the incident took place a long ago; and the revisionist is now 78 years of age.

8. Considering the nature of case and assessing the facts and circumstances of the case, this Court is of the view that it would be just and proper to

reduce the sentence of the revisionist to that of two monthsâ?? S.I instead of six monthsâ?? S.I. u/s 25 of the Telegraph Act.

9. For the reasons recorded above, the revision preferred by the revisionist is partly allowed with the following directions: -

A. The conviction part of the revisionist under Sections 21 and 25 of the Telegraph Act is maintained.

B. The conviction and sentence awarded to the revisionist u/s 21 of the Telegraph Act, sentencing the revisionist with fine of Rs.40/-, is left intact.

C. So far as the sentence awarded to the revisionist by the Trial Court u/s 25 of the Telegraph Act is concerned, the same is hereby reduced to that of two monthsâ?? S.I. instead of six monthsâ?? S.I.

D. The fine imposed by the Trial Court against the revisionist is also maintained, and the revisionist shall deposit the fine within a period of two months from today.

10. Let a copy of this judgment and order along with the LCR be sent to the Court below for compliance.