
(2011) 08 UK CK 0110
In the Uttarakhand High Court
Case No : Criminal Revision No. 3 of 2003

Yogesh Singh

APPELLANT

Vs

State of Uttaranchal

RESPONDENT

Date of Decision : 19-08-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 235(2)
Penal Code, 1860 (IPC) — Section 279, 304A

Citation : (2011) 08 UK CK 0110

Hon'ble Judges : Servesch Kumar Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Servesch Kumar Gupta, J.—None has turned up on behalf of the revisionist in any of the revised calls till 4 pm, while Mr. P.S. Bohara, learned Brief Holder, is present on behalf of the State. So, I have considered the revision on its merit.

2. This revision has been directed against the judgment and order of the Additional Sessions Judge/FTC, Almora dated 8.10.2002, whereby the Appeal No. 3/2000 was dismissed. The said appeal was preferred against the judgment and order dated 9.2.2000, delivered by the Chief Judicial Magistrate, Almora, whereby the revisionist accused Yogesh Singh was convicted for the offence of Section 279 Indian Penal Code, 1860 and sentenced to undergo three months" rigorous imprisonment. He was also found guilty for the offence of Section 304A Indian Penal Code, 1860 and was sentenced to undergo rigorous imprisonment for one year and fine of rupees one thousand. In default of payment of fine, revisionist was directed to further undergo three months" rigorous imprisonment. Both the sentences of imprisonment mentioned above were directed to run concurrently.

3. On going through the grounds of revision, it appears that nowhere any specific illegality, impropriety or incorrectness in the impugned judgments and orders has been pointed out. All the grounds are of very cursory and stereotyped in nature.

Simply saying that the court below has passed the judgment against the weight of evidence is not sufficient, because firstly, the merits of the evidence appreciated by the trial court cannot be re-appreciated by this Court in the revision, and secondly, in what manner, the judgment has been passed against the weight of evidence, has nowhere been disclosed in the grounds of revision. It has been stated in the grounds that the impugned judgments have been passed on the basis of conjectures and surmises. But again this is also a very hollow ground.

4. The other grounds, raised by the revisionist that the provisions of Section 235(2) Code of Criminal Procedure were ignored or he was not given an opportunity of hearing on the point of sentence, are quite against the record. On going through the lower court judgment, it is explicitly clear that the accused was given an opportunity of hearing to the revisionist personally as well as through his counsel before passing the order on the quantum of sentence. After finding him guilty on 9.2.2000, he was taken into custody and asked to advance the submissions on the point of quantum of sentence.

5. Furthermore, the accused was tried and convicted u/s 279 and 304A Indian Penal Code, 1860. Section 279 Indian Penal Code, 1860 attracts maximum punishment of six months, or with fine which may extend to rupees one thousand, or with both, while Section 304A Indian Penal Code, 1860 attracts maximum punishment of two years' imprisonment or, with fine, or with both. This way, both the offences are covered under summon trials and, therefore, it was not even necessary to hear on the quantum of punishment, albeit the revisionist was heard on this score also.

6. For the reasons stated above, this revision is devoid of merit and is liable to be dismissed.

7. The revision is dismissed accordingly. Revisionist is on bail. His bail bonds are cancelled. He shall be taken into custody forthwith to serve out the remaining period of sentence awarded by the trial court.

8. Let the lower court record be sent back for compliance of the order.