



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.736-738/2015

THE STATE OF UTTARAKHAND

Appellant(s)

VERSUS

ANIL & ORS.

Respondent(s)

J U D G M E N T

NAGARATHNA, J.

There is no representation on behalf of respondent Nos.1 and 2. On perusal of the Office Report, it is noted that learned counsel, Mustaq Ahmed for respondent No.1 has since passed away. There is no alternative arrangement made. As far as respondent No.2 - Mohd. Imaran is concerned, there is no representation on his behalf. In the circumstances, we request learned counsel, Smt. Sangeeta Kumar and Smt. Manjeet Chawla to serve as Amicis Curiae for respondent Nos.1 and 2 respectively in these appeals since they are appearing on behalf of the Supreme Court Legal Services Committee presently representing respondent Nos.3 and 4 respectively.

2. The State of Uttarakhand has filed these appeals assailing the Common Judgment dated 02.05.2013 passed by the Division Bench of the High Court of Uttarakhand in Criminal Appeal No.95/2009, Criminal Appeal No.97/2009 and Criminal Appeal

No.98/2009. Those appeals were preferred by the respondent-accused(s), Anil, Imran, Wasif and Pappu. *Vide* the impugned judgment, the High Court has allowed the criminal appeals and acquitted Anil and Imran who were in jail, and ordered them to be released. The accused Wasim and Pappu who are on bail were discharged from their bail bonds and sureties. By the impugned judgment, the High Court has set aside the judgment of conviction and sentence of life imprisonment in the case of accused Nos.1 and 2 and sentence of one year imprisonment plus fine in the case of accused Nos.3 and 4 imposed by judgment dated 04.06.2009 in ST No.50/2003.

3. We have heard learned counsel for the appellant-State of Uttarakhand and learned senior counsel and learned counsel for the respondent-accused(s).

4. Learned counsel for the appellant-State made a two-fold submission: *firstly*, she contended that even without going into the merits of the case, the manner and tenor of the judgment may be considered; that this is a judgment of a High Court which was considering a first appeal against a judgment and order of conviction against which appeals were filed by respondents - accused; that in a cryptic manner, the judgment has been delivered by the High Court acquitting the respondents - accused. That this Court in a catena of cases has observed that even if a judgment confirming the judgment of a Sessions

Court is to be rendered by the High Court, thereby dismissing the first appeal which has been preferred under Section 374 of the Code of Criminal Procedure, 1973 (for short, "CrPC"), the appeal would have to be considered based on the evidence on record and thereafter possibly the High Court could dismiss such an appeal. But here is a case where the High Court has reversed the judgment of the Sessions Court inasmuch as the judgment and sentence of life imprisonment has been set aside and a complete acquittal given to the respondents - accused without there being any reasons and marshalling of the facts and the evidence on record. In this regard, she drew our attention to paragraphs 2 and 3 of the impugned judgment and submitted that the findings in paragraph 3 of the impugned judgment are *de hors* any basis in the absence of there being a discussion of the facts and evidence on record. In the circumstances, she submitted that if this Court is so inclined, may consider remanding of the matter without going into the merits of the case.

5. The second submission of learned counsel for the appellant is, in the event this Court is not inclined to accept the first submission, then the appeal can be taken up on merits. Learned counsel submitted that even on merits, the High Court could not have given a judgment of acquittal by reversing the judgment of the Sessions Court. She therefore submitted that the impugned

judgment may be set aside and the judgment of the Sessions Court may be restored.

6. *Per contra*, learned senior counsel and learned counsel appearing for the respondents-accused who have been acquitted, vehemently contended that there is no merit in the submissions made by the appellant's counsel. They drew our attention to the fact that the High Court may have given the judgment pithily but it is not without substance. Merely because the impugned judgment is short and not a lengthy one cannot make it an erroneous judgment as the reasoning is evident and there is a basis for the findings arrived at. In the circumstances, this Court may not accept the first contention of the appellant and hence, they contended that they are ready to argue the matter on merits so that this Court could confirm the judgment of acquittal passed by the High Court.

7. In view of the nature of grievances expressed by the appellant-State and the tenor of the submissions advanced, it is not necessary to narrate the facts of the case giving rise to these appeals in detail.

8. We observe that while hearing appeals under Section 374(2) of the CrPC, the High Court is exercising its appellate jurisdiction. There has to be an independent application of mind in deciding the criminal appeal against conviction. It is

the duty of an appellate court to independently evaluate the evidence presented and determine whether such evidence is credible. Even if the evidence is deemed reliable, the High Court must further assess whether the prosecution has established its case beyond reasonable doubt. The High Court, though being an appellate Court, is akin to a Trial Court and must be convinced beyond all reasonable doubt that the prosecution's case is substantially true and that the guilt of the accused has been conclusively proven while considering an appeal against conviction.

9. As the first appellate court, the High Court is expected to evaluate the evidence including the medical evidence, statement of the victim, statements of the witnesses and the defence version with due care. While the judgment need not be excessively lengthy, it must reflect a proper application of mind to crucial evidence. Albeit the High Court does not have the advantage to examine the witnesses directly, the High Court should, as an appellate Court, re-assess the facts, evidence on record and findings to arrive at a just conclusion in deciding whether the Trial Court was justified in convicting the accused or not. We are also cognizant of the large pendency of cases bombarding our courts. However, the same cannot come in the way of the Court's solemn duty, particularly, when a person's liberty is at stake.

10. This Court, in State of Uttar Pradesh vs. Ambarish, (2021) 16 SCC 371 held that while deciding a criminal appeal on merits, the High Court is required to apply its mind to the entirety of the case, including the evidence on the record before arriving at its conclusion. In this regard, we may also refer to the orders passed by this Court in Shakuntala Shukla vs. State of Uttar Pradesh, (2021) 20 SCC 818 and State Bank of India vs. Ajay Kumar Sood, (2023) 7 SCC 282.

11. We find that the High Court ought to have considered the evidence on record in light of the arguments advanced at the bar and thereafter ascertained whether the Sessions Court was justified in passing the judgment of conviction and imposing the sentence. The same being absent in the impugned judgment, for that sole reason, we set aside the same. In fact, the High Court has not even referred to the case number and the trial court from which the appeals had arisen.

12. We therefore find that the first contention advanced by the learned counsel for the appellant-State has to be accepted for the reason that the respondents-accused in these appeals respectively would also have another opportunity in the appeals that they had filed before the High Court. In the circumstances, while holding that the impugned judgment of the High Court is cryptic and *de hors* any reasoning in coming to the findings in paragraph 3 of the said judgment, we set aside

the said judgment without expressing anything on the merits of the case.

13. We allow the appeals filed on the aforesaid limited ground.

14. The matters are remanded to the High Court of Uttarakhand at Nainital.

15. The High Court is requested to rehear the appeals filed by the respondents/accused respectively in these appeals by also giving an opportunity to the appellant-State herein to make its submission in the said appeals as well as the accused to make this submission in the matter.

16. We once again clarify that we have not made any observations on the merits of the matter.

17. All contentions on both sides are left open to be advanced before the High Court.

18. Since the incident is of the year 2002 and the impugned judgment is dated 02.05.2013 and we are remanding the matter to the High Court, we request the High Court to dispose of the appeal as expeditiously as possible.

19. Since we have set aside the judgment dated 02.05.2013 passed by the High Court of Uttarakhand at Nainital in Criminal Appeal Nos.95 of 2009*; 97 of 2009* and 98 of 2009*, the

accused Anil and Imran shall remain on bail. However, the said accused shall appear before the concerned Principal District and Sessions Judge, Haldwani and execute fresh bonds for a sum of Rs.15,000/- each with two like sureties each and subject to other conditions imposed by the concerned Principal District and Sessions Judge, Haldwani.

20. In view of the above, the judgment dated 02.05.2013 passed in Criminal Appeal No.95/2009, Criminal Appeal No.97/2009 and Criminal Appeal No.98/2009 are set aside, the matters are remanded to the High Court of Uttarakhand by restoring the aforesaid appeals on the file of the said High Court. The High Court is requested to rehear these appeals in order to decide upon the correctness or otherwise of the judgment and sentence imposed by the Sessions Court and to dispose of the appeals in accordance with law.

21. The appeals are allowed and disposed of in the aforesaid terms.

22. It is needless to observe that the High Court shall issue notice to all the parties and thereafter shall rehear the appeals upon service of notice to the respondents.

Pending application(s), if any, shall stand disposed of.

....., J.
(B.V. NAGARATHNA)

....., J.
(R. MAHADEVAN)

NEW DELHI;
SEPTEMBER 18, 2025.

ITEM NO.124

COURT NO.5

CORRECTED*
SECTION II-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NOS. 736-738/2015

THE STATE OF UTTARAKHAND

Appellant(s)

VERSUS

ANIL & ORS.

Respondent(s)

Date : 18-09-2025 These appeals were called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA
HON'BLE MR. JUSTICE R. MAHADEVAN

For Appellant(s) Mr. Sudarshan Singh Rawat, AOR
Ms. Saakshi Singh Rawat, Adv.

For Respondent(s) Ms. Mridula Ray Bharadwaj, AOR

Ms. Sangeeta Kumar, AOR
Mrs. Vithika Garg, Adv.
Ms. Vidushi Garg, Adv.

Mr. A. Shirajudeen, Sr. Adv.
Ms. Manjeet Chawla, AOR
Ms. Kiran Bala Agarwal, Adv.
Ms. Shaik Soni Ahamed, Adv.

UPON hearing the counsel, the Court made the following
O R D E R

The appeals are allowed and disposed of in terms of the signed non-reportable judgment which is placed on the file.

Pending application(s), if any, shall stand disposed of.

(RADHA SHARMA)
ASTT. REGISTRAR-cum-PS

(DIVYA BABBAR)
COURT MASTER (NSH)