

SUPREME COURT OF INDIA

Dilbagh Singh

Vs.

State of Uttaranchal (Now State of Uttarakhand)

Crl.A.No.156 of 2014

(Sudhansu Jyoti Mukhopadhaya and Kurian Joseph JJ.)

17.01.2014

JUDGMENT

KURIAN, J.:

1. Leave granted.

2. The appellant was convicted under Section 307 read with Section 34 of the Indian Penal Code (hereinafter referred to as 'IPC') and sentenced to three years and six months rigorous imprisonment and fine of Rs.500/- and, in default of fine, for rigorous imprisonment for another one month by the Fast Track Court, Haldwani, Uttarakhand as per Judgment and Order dated 29.09.2001. The appeal therefrom at the instance of the appellant herein was dismissed as per the Judgment dated 06.04.2013 of the High Court of Uttarakhand at Nainital and, hence, the appeal.

3. The incident relates back to 04.11.1993. While the informant Trilok Singh along with his sister were doing work in their agriculture field in their village Rampura Kazi under Police Station Bazpur, the appellant armed with country-made pistol along with his brother Makkhan Singh who carried a country-made gun opened fire at them. The informant Trilok Singh suffered bullet injuries on the hand, shoulder and stomach, the sister suffered only minor abrasions which were later certified by the Doctor to have been caused not by gun shot. During the course of the trial under Section 307 read with Section 34 IPC, appellant's brother and the main accused Makkhan Singh died. On the basis of evidence tendered by the injured witnesses as PWs 1 and 2, and PW3 - another eye-witness who came to the

scene for rescue, the appellant was convicted under Section 307 read with Section 34 IPC and sentenced as stated above. The appellant was not successful before the High Court.

4. This Court on 06.09.2013, issued notice limited to the quantum of sentence.

5. Having special regard to the fact that the bullet injuries suffered by PW1 are not from the pistol of the appellant, having regard to the fact that PW2 has not suffered any bullet injury and that she suffered only minor abrasions caused on account of fall while running, having regard to the fact that the incident is of the year 1993, having regard to the fact that the evidence tendered before the Trial Court was after eight years, and, thus, having regard to the weak evidence on the latter part of Section 34 IPC on the participation in commission of the offence, we are of the view that the proper sentence on the appellant would be two years of rigorous imprisonment with fine of Rs.500/- and the default sentence of additional one month as the same would meet the ends of justice. Ordered accordingly.

6. Appeal is allowed as above.