

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal Nos.1189-1190/2015

STATE OF UTTARAKHAND

Appellant(s)

VERSUS

NANKU @ PAPPU & ANR.

Respondent(s)

O R D E R

These appeals are preferred by the State of Uttarakhand for challenging the impugned judgment of the Division Bench of the High Court dated 8th May, 2013 by which the respondents were acquitted for the offences punishable under Sections 302, 364 and 261 of the Indian Penal Code, 1860. The order of conviction passed by the Trial Court has been overturned by the High Court.

The case is based on circumstantial evidence. One of the most important circumstance forming part of the chain of circumstances was that the deceased was lastly seen in the company of the respondents - accused. PW1 is the only witness examined in support of the last seen together theory. We have perused his evidence. He deposed before the Court that deceased went away with two persons towards

Hathiwala Estate. While leaving, he was told by the persons that they would return in one hour. However, they did not return. In the examination-in-chief itself, he accepted that he was not able to identify the accused were present in court and that he was unable to state whether the accused sitting in the court accompanied deceased on the same day. Therefore, the most important circumstance forming part of the chain pleaded that the deceased was lastly seen in the company of the accused was not established.

The view taken by the High Court is certainly a plausible view which could have been taken on the basis of evidence on record. In fact, this is a case where no other view was possible. We wonder why the State has preferred these appeals against acquittal in such a case. The appeals are accordingly dismissed.

Before we part with the case, we must record a very shocking feature of the case. The High Court in the impugned judgment has recorded the following finding:

"While recording statements under Section 313 of the Code of Criminal Procedure, appellants held out that, after they were arrested, each of them was beaten up, in consequence whereof, appellant Nanku broke his leg and that the Police obtained their signatures on many a papers. That appellant Nanku broke his

leg while in custody and such breaking was not caused by falling but by beating with some heavy material, was proved by Dr. Dayal Sharan (DW1), who was the Doctor attached to the Jail at the relevant time."

Therefore, what is held by the High Court is that the first respondent broke his leg while in police custody and in fact, the doctor attached to the jail was examined as DW1 who deposed that the injury caused to the first respondent was not due to fall but by assault with some heavy materials.

Therefore, that State Government must hold an inquiry into the incident and initiate an action in accordance with law against those who are responsible for causing injuries to the first respondent.

We direct that the jurisdictional District Magistrate shall hold an inquiry into the incident of serious injury caused to the first accused while he was in custody. The officers of the State shall cooperate with the District Magistrate. The District Magistrate shall initiate appropriate proceedings in accordance with law against the erring officials. The District Magistrate shall submit a report to this Court on or before 31st March, 2025. Though the appeals are dismissed, for considering the said report, the same shall be listed for directions on 4th April, 2025.

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

.....J.
(ABHAY S.OKA)

.....J.
(UJJAL BHUYAN)

NEW DELHI;
JANUARY 9, 2025.

ITEM NO.109

COURT NO.5

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 No(s). 1189-1190/2015

STATE OF UTTARAKHAND

Appellant(s)

VERSUS

NANKU @ PAPPU & ANR.

Respondent(s)

Date : 09-01-2025 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN

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

For Respondent(s) Ms. V. Mohana, Sr. Adv.
Ms. Nidhi, AOR
Mr. Amit K. Nain, AOR

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

The appeals are dismissed in terms of the signed order.

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

(KAVITA PAHUJA)
AR-cum-PS

(AVGV RAMU)
COURT MASTER (NSH)

[Signed order is placed on the file]